



Iowa General Assembly  
Daily Bills, Amendments & Study Bills  
February 25, 2011

**House File 407 - Introduced**

HOUSE FILE  
BY SWEENEY

**A BILL FOR**

1 An Act establishing the council for agricultural education.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2538HH (4) 84  
je/sc



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1 1 Section 1. NEW SECTION. 256.32 Council for agricultural  
1 2 education.  
1 3 1. An advisory council for agricultural education is  
1 4 established, which consists of nine members appointed by the  
1 5 governor. The nine members shall include the following:  
1 6 a. Five persons representing all areas of agriculture and  
1 7 diverse geographical areas.  
1 8 b. The individual representing agriculture on the state  
1 9 council for vocational education.  
1 10 c. A secondary school program instructor, a postsecondary  
1 11 school program instructor, and a teacher educator.  
1 12 2. The council may also include as ex officio members the  
1 13 following persons, as determined by the voting members of the  
1 14 council:  
1 15 a. The state future farmers of America president.  
1 16 b. The current state future farmers of America alumni  
1 17 association president.  
1 18 c. The current postsecondary agriculture students president.  
1 19 d. The current young farmers educational association  
1 20 president.  
1 21 e. A state consultant in agricultural education.  
1 22 f. The secretary of agriculture or the secretary's designee.  
1 23 g. Two members of each house of the general assembly. This  
1 24 membership shall be bipartisan in composition and one member  
1 25 each shall be selected by the president of the senate, after  
1 26 consultation with the majority leader of the senate, and by the  
1 27 minority leader of the senate, and one member each shall be  
1 28 selected by the speaker of the house of representatives and by  
1 29 the minority leader of the house of representatives.  
1 30 3. The duties of the council are to review, develop,  
1 31 and recommend standards for secondary and postsecondary  
1 32 agricultural education. The council shall annually issue a  
1 33 report to the state board of education and the chairpersons  
1 34 of the house and senate agriculture and education committees  
1 35 regarding both short-term and long-term curricular standards



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2 1 for agricultural education and the council's activities. The  
2 2 council shall meet a minimum of twice annually, and must have  
2 3 a quorum consisting of a majority of voting members present  
2 4 to hold an official meeting and to take any final council  
2 5 action. However, hearings may be held without a quorum. The  
2 6 chairperson shall be elected annually by and from the voting  
2 7 membership. The initial organizational meeting shall be called  
2 8 by the director of the department of education.

2 9 4. The term of membership is three years. The terms shall  
2 10 be staggered so that three of the terms end each year, but no  
2 11 member serving on the initial council shall serve less than one  
2 12 year. The governor shall determine the length of the initial  
2 13 terms of office. However, the terms of office for members of  
2 14 the general assembly shall be as provided in section 69.16B.

2 15 EXPLANATION

2 16 This bill establishes the council for agricultural education  
2 17 as repealed by 2010 Acts, chapter 1031. The council shall  
2 18 consist of nine voting members appointed by the governor  
2 19 including five persons representing all areas of agriculture  
2 20 and diverse geographical areas, the individual representing  
2 21 agriculture on the state council for vocational education, a  
2 22 secondary school program instructor, a postsecondary school  
2 23 program instructor, and a teacher educator. The council  
2 24 may also include as ex officio nonvoting members the state  
2 25 future farmers of America president, the current state future  
2 26 farmers of America alumni association president, the current  
2 27 postsecondary agriculture students president, the current young  
2 28 farmers educational association president, a state consultant  
2 29 in agricultural education, the secretary of agriculture or  
2 30 the secretary's designee, and two members of each house of  
2 31 the general assembly. The bill provides that the legislative  
2 32 members shall be bipartisan in composition and sets out  
2 33 procedures for their appointment.

2 34 The bill sets out duties and procedures for the council,  
2 35 including reviewing, developing, and recommending standards for



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3 1 secondary and postsecondary agricultural education and issuing  
3 2 an annual report to the state board of education and the house  
3 3 and senate agriculture and education committees. The term of  
3 4 membership for the council is three years.

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**House File 408 - Introduced**

HOUSE FILE  
BY BERRY

**A BILL FOR**

1 An Act prohibiting certain alcoholic beverage licensees or  
2 permit holders from knowingly permitting or engaging in any  
3 criminal activity on the premises covered by the license or  
4 permit, and making penalties applicable.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2387YH (3) 84  
rn/nh



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1 1 Section 1. Section 123.49, subsection 2, paragraph j, Code  
1 2 2011, is amended to read as follows:

1 3 j. Knowingly permit or engage in any criminal activity  
1 4 on the premises covered by the license or permit. However,  
1 5 the absence of security personnel on the licensed premises  
1 6 is insufficient, without additional evidence, to prove that  
1 7 criminal activity occurring on the licensed premises was  
1 8 knowingly permitted in violation of this paragraph "j".

1 9 (1) For purposes of this paragraph "j", "premises" includes  
1 10 parking lots and areas adjacent to the premises of a liquor  
1 11 licensee or permittee authorized to sell alcoholic beverages  
1 12 for consumption on the licensed premises and used by patrons of  
1 13 the liquor licensee or permittee.

1 14 (2) For purposes of this paragraph "j", "premises" also  
1 15 includes parking lots and areas adjacent to the premises of a  
1 16 retail establishment holding a liquor license or permit and  
1 17 authorized to sell alcoholic beverages for consumption off  
1 18 the licensed premises and used by patrons of the licensee  
1 19 or permittee. For purposes of this subparagraph, "retail  
1 20 establishment" means a retail store occupying less than three  
1 21 thousand five hundred square feet of floor space and engaged in  
1 22 the sale of alcoholic beverages at retail.

1 23 EXPLANATION

1 24 This bill relates to the prohibition against a liquor  
1 25 licensee or beer and wine permittee under Code chapter 123  
1 26 knowingly permitting or engaging in any criminal activity on  
1 27 the premises covered by the license or permit.

1 28 Currently, for purposes of the prohibition, "premises"  
1 29 is defined to include parking lots and areas adjacent to  
1 30 the premises of licensees or permittees authorized to sell  
1 31 alcoholic beverages for consumption on the licensed premises  
1 32 and used by patrons of the liquor licensee or permittee. The  
1 33 bill extends the prohibition to parking lots and areas adjacent  
1 34 to the premises of a retail establishment holding a liquor  
1 35 license or permit and authorized to sell alcoholic beverages



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2 1 for consumption off the licensed premises. The bill defines  
2 2 a "retail establishment" as a retail store occupying less  
2 3 than 3,500 square feet of floor space and selling alcoholic  
2 4 beverages at retail.  
2 5 A violation of the bill's provisions constitutes a simple  
2 6 misdemeanor punishable by confinement for no more than 30 days  
2 7 or a fine of at least \$65 but not more than \$625 or by both.  
2 8 In addition, a violation is grounds for the suspension or  
2 9 revocation of a license or permit by the alcoholic beverages  
2 10 division or a local authority.

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**House File 409 - Introduced**

HOUSE FILE  
BY BERRY

**A BILL FOR**

1 An Act relating to revocation and subsequent reissuance of  
2 alcoholic beverage licenses and permits.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TL5B 2385YH (4) 84  
rn/sc





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1 1 Section 1. Section 123.40, Code 2011, is amended to read as  
1 2 follows:

1 3 123.40 Effect of revocation.

1 4 1. Any liquor control licensee, wine permittee, or beer  
1 5 permittee whose license or permit is revoked under this chapter  
1 6 shall not thereafter be permitted to hold a liquor control  
1 7 license, wine permit, or beer permit in the state of Iowa for a  
1 8 period of ~~two~~ three years from the date of revocation.

1 9 2. a. A spouse or other relative of a person whose license  
1 10 or permit has been revoked under this chapter shall not be  
1 11 issued a liquor control license, wine permit, or beer permit  
1 12 with respect to the business subject to revocation for a period  
1 13 of three years from the date of revocation.

1 14 b. A business associate holding ten percent or more of the  
1 15 capital stock or ownership interest in the business of a person  
1 16 whose license or permit has been revoked shall not be issued  
1 17 a liquor control license, wine permit, or beer permit, and no  
1 18 liquor control license, wine permit, or beer permit shall be  
1 19 issued which covers any business in which such person has a  
1 20 financial interest for a period of ~~two~~ three years from the  
1 21 date of revocation.

1 22 3. If a license or permit is revoked, the premises which had  
1 23 been covered by the license or permit shall not be relicensed  
1 24 for one year.

1 25 EXPLANATION

1 26 This bill relates to restrictions on subsequent reissuance  
1 27 of a liquor control license, wine permit, or beer permit  
1 28 which has been subject to revocation. Currently, a licensee  
1 29 or permittee whose license or permit has been revoked cannot  
1 30 receive another license or permit for two years from the date  
1 31 of revocation. The same restriction applies to a spouse or  
1 32 business associate holding 10 percent or more of the capital  
1 33 stock or ownership interest in the licensee's or permittee's  
1 34 business. The bill expands these time periods from two to  
1 35 three years and applies to the spouse or relative of the



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2 1 licensee regardless of ownership interest.  
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## House File 410 - Introduced

HOUSE FILE  
BY SWAIM

### A BILL FOR

1 An Act relating to automobile or motor vehicle insurance  
2 coverage of liability arising from uninsured, underinsured,  
3 or hit=and=run motorists.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2476YH (2) 84  
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1 1 Section 1. Section 516A.1, Code 2011, is amended to read as  
1 2 follows:

1 3 516A.1 Coverage included in every liability policy ====  
1 4 rejection by insured.

1 5 1. No An automobile liability or motor vehicle liability  
1 6 insurance policy insuring against liability for bodily injury  
1 7 or death arising out of the ownership, maintenance, or use of  
1 8 a motor vehicle shall not be delivered or issued for delivery  
1 9 in this state with respect to any motor vehicle registered or  
1 10 principally garaged in this state, unless coverage is provided  
1 11 in such policy or supplemental thereto, for the protection of  
1 12 persons insured under such policy who are legally entitled to  
1 13 recover damages from the owner or operator of an uninsured  
1 14 motor vehicle or a hit-and-run motor vehicle or an underinsured  
1 15 motor vehicle because of bodily injury, sickness, or disease,  
1 16 including death resulting therefrom, caused by accident and  
1 17 arising out of the ownership, maintenance, or use of such  
1 18 uninsured or underinsured motor vehicle, or arising out of  
1 19 physical contact ~~of~~ with, or reasonable avoidance of physical  
1 20 contact with, such hit-and-run motor vehicle with the person  
1 21 insured or with a motor vehicle which the person insured is  
1 22 occupying at the time of the accident. Both the uninsured  
1 23 motor vehicle or hit-and-run motor vehicle coverage, and the  
1 24 underinsured motor vehicle coverage shall include limits for  
1 25 bodily injury or death at least equal to ~~those stated in~~  
~~1 26 section 321A.1, subsection 11 the limits of liability for the~~  
1 27 bodily injury portion of the insurance policy. The form and  
1 28 provisions of such coverage shall be examined and approved by  
1 29 the commissioner of insurance.

1 30 2. However, the The named insured may reject all of ~~such~~  
~~1 31 the coverage required in subsection 1, or reject the uninsured~~  
1 32 motor vehicle (hit-and-run motor vehicle) coverage, or reject  
1 33 the underinsured motor vehicle coverage, by written rejections  
1 34 signed by the named insured. If rejection is made on a form  
1 35 or document furnished by an insurance company or insurance



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2 1 producer, ~~it~~ the rejection shall be on a separate sheet  
2 2 of paper which contains only the rejection and information  
2 3 directly related to ~~it~~ the rejection, including an explanation  
2 4 of the coverage being rejected and the amount of the premium  
2 5 associated with the coverage being rejected. Such coverage  
2 6 need not be provided in or supplemental to a renewal policy if  
2 7 the named insured has rejected the coverage in connection with  
2 8 a policy previously issued to the named insured by the same  
2 9 insurer.

2 10 Sec. 2. Section 516A.2, Code 2011, is amended to read as  
2 11 follows:

2 12 516A.2 Construction ==== minimum coverage ==== ~~stacking~~ step=down  
2 13 provisions.

2 14 1. ~~Except with respect to a policy containing both~~  
~~2 15 underinsured motor vehicle coverage and uninsured or~~  
~~2 16 hit-and-run motor vehicle coverage, nothing~~ Nothing contained  
2 17 in this chapter shall be construed as requiring forms of  
2 18 coverage provided pursuant hereto, whether alone or in  
2 19 combination with similar coverage afforded under other  
2 20 automobile liability or motor vehicle liability policies, to  
2 21 afford limits in excess of those that would be afforded had the  
2 22 insured thereunder been involved in an accident with a motorist  
2 23 who was insured under a policy of liability insurance with  
2 24 the minimum limits for bodily injury or death prescribed in  
2 25 subsection 11 of section 321A.1. Such forms of coverage may  
2 26 include terms, exclusions, limitations, conditions, and offsets  
2 27 which are designed to avoid ~~duplication of insurance or other~~  
~~2 28 benefits duplicate payment of damages.~~

2 29 ~~To the extent that Hernandez v. Farmers Insurance Company,~~  
~~2 30 460 N.W.2d 842 (Iowa 1990), provided for interpolicy stacking~~  
~~2 31 of uninsured or underinsured coverages in contravention of~~  
~~2 32 specific contract or policy language, the general assembly~~  
~~2 33 declares such decision abrogated and declares that the~~  
~~2 34 enforcement of the antistacking provisions contained in a motor~~  
~~2 35 vehicle insurance policy does not frustrate the protection~~



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~~3 1 given to an insured under section 516A.1.~~  
3 2 2. Pursuant to chapter 17A, the commissioner of insurance  
~~3 3 shall, by January 1, 1992, adopt rules to assure the~~  
~~3 4 availability, within the state, of motor vehicle insurance~~  
~~3 5 policies, riders, endorsements, or other similar forms of~~  
~~3 6 coverage, the terms of which shall provide for the stacking of~~  
~~3 7 uninsured and underinsured coverages with any similar coverage~~  
~~3 8 which may be available to an insured.~~  
3 9 3. ~~It is the intent of the general assembly that when more~~  
~~3 10 than one motor vehicle insurance policy is purchased by or on~~  
~~3 11 behalf of an injured insured and which provides uninsured,~~  
~~3 12 underinsured, or hit-and-run motor vehicle coverage to an~~  
~~3 13 insured injured in an accident, the injured insured is entitled~~  
~~3 14 to recover up to an amount equal to the highest single limit~~  
~~3 15 for uninsured, underinsured, or hit-and-run motor vehicle~~  
~~3 16 coverage under any one of the above described motor vehicle~~  
~~3 17 insurance policies insuring the injured person which amount~~  
~~3 18 shall be paid by the insurers according to any priority of~~  
~~3 19 coverage provisions contained in the policies insuring the~~  
~~3 20 injured person.~~  
3 21 2. A policy to which this chapter applies shall not include  
3 22 exclusions or step-down provisions that eliminate or reduce  
3 23 uninsured or underinsured coverage for a person who would  
3 24 otherwise be covered under the policy, for the reason that  
3 25 the person is injured by, or while occupying a vehicle being  
3 26 operated by, another person insured under the policy.  
3 27 Sec. 3. Section 516A.4, Code 2011, is amended to read as  
3 28 follows:  
3 29 516A.4 Insurer making payment ==== reimbursement ==== settlement  
3 30 ==== substitute tender ==== good faith.  
3 31 1. In the event of payment to any person under the  
3 32 coverage required by this chapter and subject to the terms and  
3 33 conditions of such coverage, the insurer making such payment  
3 34 shall, to the extent thereof, be entitled to the proceeds of  
3 35 any settlement or judgment resulting from the exercise of



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4 1 any rights of recovery of such person against any person or  
4 2 organization legally responsible for the bodily injury for  
4 3 which such payment is made, including the proceeds recoverable  
4 4 from the assets of the insolvent insurer, to the extent that  
4 5 the proceeds of the resulting settlement or judgment, when  
4 6 combined with such payment made by the insurer, exceed such  
4 7 person's damages. The person to whom said payment is made  
4 8 under the insolvency protection required by this chapter shall  
4 9 to the extent thereof, be deemed to have waived any right to  
4 10 proceed to enforce such a judgment against the assets of the  
4 11 judgment debtor who was insured by the insolvent insurer whose  
4 12 insolvency resulted in said payment being made, other than  
4 13 assets recovered or recoverable by such judgment debtor from  
4 14 such insolvent insurer.

4 15 2. An insurer providing coverage under this chapter shall,  
4 16 within thirty days after receipt of a written request for  
4 17 permission to settle with any person or organization legally  
4 18 responsible for bodily injury for which coverage is provided  
4 19 under this chapter, either give consent to the settlement or  
4 20 tender substitute payment of the settlement amount. Failure  
4 21 of the insurer to give such consent or to tender substitute  
4 22 payment shall constitute the insurer's consent to the  
4 23 settlement and shall bar the insurer from claiming that the  
4 24 settlement prejudiced the insurer's rights under the policy or  
4 25 this section.

4 26 3. An insurer that pursues, through subrogation or  
4 27 assignment, a claim against any person or organization legally  
4 28 responsible for bodily injury for which the insurer has made  
4 29 payments under this chapter, shall include in such claim all  
4 30 damages of the subrogor or assignor of the claim, and shall  
4 31 tender to the subrogor or assignor any amounts to which the  
4 32 subrogor or assignor would have been entitled under subsection  
4 33 1 if the subrogor or assignor had directly pursued the claim.

4 34 4. An insurer shall act in good faith in response to a  
4 35 claim for benefits under coverage required by this chapter.



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5 1 An insurer who fails to act in good faith in response to such  
5 2 a claim for benefits shall be liable to the person owed such  
5 3 benefits for all damages caused by such failure, including  
5 4 interest, reasonable attorney fees and expenses, and punitive  
5 5 damages if the required showing is made pursuant to chapter  
5 6 668A. For the purposes of this subsection, "good faith" means  
5 7 an informed judgment based on honesty and diligence, supported  
5 8 by evidence that the insurer knew or should have known at the  
5 9 time the insurer made a decision on the claim. The insurer  
5 10 shall have the burden of proving that it acted in good faith.

5 11 EXPLANATION

5 12 This bill relates to automobile or motor vehicle insurance  
5 13 coverage of liability arising from uninsured, underinsured, or  
5 14 hit-and-run motorists.

5 15 Code section 516A.1 is amended to require coverage for  
5 16 damages arising out of reasonable avoidance of physical contact  
5 17 with a hit-and-run motor vehicle. Coverage for uninsured,  
5 18 underinsured, and hit-and-run motor vehicle liability must  
5 19 equal the limits of liability for the bodily injury portion  
5 20 of the insurance policy instead of the statutory amounts  
5 21 required for proof of financial responsibility in Code section  
5 22 321A.1(11). A form furnished by the insurance company allowing  
5 23 an insured to reject any or all of the required coverage must  
5 24 include an explanation of the coverage being rejected and the  
5 25 amount of premium associated with the coverage being rejected.

5 26 Code section 516A.2(1) is amended to provide that such  
5 27 coverage may include provisions that are designed to avoid  
5 28 duplicate payment of damages. The remainder of Code sections  
5 29 516A.2(1) and 516A.2(2) relating to stacking of uninsured and  
5 30 underinsured coverages, and Code section 516A.2(3) relating to  
5 31 coverage under multiple motor vehicle insurance policies of  
5 32 one insured, are stricken. Code section 516A.2 is amended to  
5 33 prohibit exclusions or step-down provisions in motor vehicle  
5 34 insurance policies that eliminate or reduce uninsured or  
5 35 underinsured coverage for a person who would otherwise be





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6 1 covered under the policy, because the person is injured by, or  
6 2 while in a vehicle being operated by, another person insured  
6 3 under the policy.  
6 4 Code section 516A.4(1) is amended to provide that an insurer  
6 5 who has made payments under a policy to an injured party is  
6 6 entitled to proceeds of a resulting settlement or judgment  
6 7 against the person responsible for those damages only to the  
6 8 extent that the proceeds combined with payment made by the  
6 9 insurer exceed the injured party's damages.  
6 10 Code section 516A.4(2) provides that an insurer has 30 days  
6 11 after receipt of a request for permission to settle against  
6 12 the responsible party, to either consent to the settlement  
6 13 or to tender substitute payment of the settlement amount, or  
6 14 such failure will constitute consent and bar the insurer from  
6 15 claiming prejudice as a result of the settlement.  
6 16 Code section 516A.4(3) provides that when an insurer pursues  
6 17 a claim, through subrogation or assignment, against the party  
6 18 responsible for bodily injury for which the insurer has made  
6 19 payments, the insurer shall include the damages of the subrogor  
6 20 or assignor and tender the amount to the assignor or subrogor  
6 21 that the person would have been entitled to if that person had  
6 22 pursued the claim directly.  
6 23 Code section 516A.4(4) requires an insurer to act in good  
6 24 faith in response to a claim for uninsured, underinsured, or  
6 25 hit-and-run benefits under Code chapter 516A and provides  
6 26 that an insurer that does not act in good faith is liable  
6 27 to the person owed such benefits for all damages caused by  
6 28 that failure, including interest, reasonable attorney fees  
6 29 and expenses, and punitive damages upon the showing required  
6 30 under Code chapter 668A. For the purposes of this provision,  
6 31 "good faith" means an informed judgment based on honesty and  
6 32 diligence, supported by evidence that the insurer knew or  
6 33 should have known at the time the insurer made a decision on  
6 34 the claim. The insurer has the burden of proving that it acted  
6 35 in good faith.

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## House File 411 - Introduced

HOUSE FILE  
BY GARRETT

### A BILL FOR

1 An Act relating to mechanics' liens including the establishment  
2 of a state construction registry for residential  
3 construction property and including effective date  
4 provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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rh/nh



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1 1 Section 1. Section 207.23, subsection 1, Code 2011, is  
1 2 amended to read as follows:  
1 3 1. Within six months after the completion of a project to  
1 4 restore, reclaim, abate, control, or prevent adverse effects  
1 5 of past coal mining practices on privately owned land, the  
1 6 division shall itemize the money expended on the project and  
1 7 may file a lien statement ~~in the manner provided in section~~  
~~1 8 572.8~~ in the office of the district court clerk of each county  
1 9 in which a portion of the property affected by the project is  
1 10 located, together with a notarized appraisal by an independent  
1 11 appraiser of the value of the land before the restoration,  
1 12 reclamation, abatement, control, or prevention of adverse  
1 13 effects of past mining practices if the money so expended  
1 14 results in a significant increase in property value. A copy  
1 15 of the lien statement and the appraisal, if required, shall be  
1 16 served upon affected property owners in the manner provided  
1 17 for service of an original notice. The lien shall not exceed  
1 18 the amount determined by the appraiser to be the increase in  
1 19 the market value of the land as a result of the restoration,  
1 20 reclamation, abatement, control, or prevention of adverse  
1 21 effects of past coal mining practices. A lien shall not be  
1 22 filed in accordance with this subsection against the property  
1 23 of a person who owned the surface prior to May 2, 1977, and who  
1 24 neither consented to, participated in, nor exercised control  
1 25 over the mining operation which necessitated the reclamation  
1 26 performed.  
1 27 Sec. 2. Section 572.1, Code 2011, is amended to read as  
1 28 follows:  
1 29 572.1 Definitions and rules of construction.  
1 30 For the purpose of this chapter:  
1 31 1. "Administrator" means the secretary of state.  
1 32 ~~1. 2.~~ "Building" shall be construed as if followed by the  
1 33 words "erection, or other improvement upon land".  
1 34 3. "General contractor" includes every person who does work  
1 35 or furnishes materials by contract, express or implied, with an



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2 1 owner. "General contractor" does not include a person who does  
2 2 work or furnishes materials on contract with an owner=builder.  
2 3 ~~2.~~ 4. "Labor" means labor completed by the claimant.  
2 4 ~~3.~~ 5. "Material" ~~shall~~, in addition to its ordinary  
2 5 meaning, ~~include~~ includes machinery, tools, fixtures, trees,  
2 6 evergreens, vines, plants, shrubs, tubers, bulbs, hedges,  
2 7 bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire,  
2 8 fence material, fence posts, tile, and the use of forms,  
2 9 accessories, and equipment furnished by the claimant.  
2 10 ~~4.~~ 6. "Owner" means the ~~record~~ legal or equitable  
2 11 titleholder and every person for whose use or benefit any  
2 12 building, erection, or other improvement is made, having the  
2 13 capacity to contract, including guardians or record.  
2 14 ~~5. "Owner-occupied dwelling" means the homestead of an~~  
2 15 ~~owner, as defined in section 561.1, and without respect to the~~  
2 16 ~~value limitations in section 561.3, and actually occupied by~~  
2 17 ~~the owner or the spouse of the owner, or both. "Owner-occupied~~  
2 18 ~~dwelling" includes a newly constructed dwelling to be occupied~~  
2 19 ~~by the owner as a homestead, or a dwelling that is under~~  
2 20 ~~construction and being built by or for an owner who will occupy~~  
2 21 ~~the dwelling as a homestead.~~  
2 22 7. "Owner=builder" means the legal or equitable titleholder  
2 23 of record who furnishes material for or performs labor upon a  
2 24 building, erection, or other improvement, or who contracts with  
2 25 a subcontractor to furnish material for or perform labor upon  
2 26 a building, erection, or other improvement and who offers or  
2 27 intends to offer to sell the owner=builder's property without  
2 28 occupying or using the structures, properties, developments,  
2 29 or improvements for a period of more than one year from the  
2 30 date the structure, property, development, or improvement is  
2 31 substantially completed or abandoned.  
2 32 8. "Residential construction" means construction on  
2 33 single=family or two=family dwellings occupied or used, or  
2 34 intended to be occupied or used, primarily for residential  
2 35 purposes, and includes real property pursuant to chapter 499B.



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3 1 9. "State construction registry" means a centralized  
3 2 computer database maintained and posted on the internet by  
3 3 the administrator that provides a central repository for the  
3 4 submission and management of preliminary notices, notices of  
3 5 commencement of work, and mechanics' liens on all residential  
3 6 construction properties.

3 7 10. "State construction registry number" means a number  
3 8 provided by the administrator for all residential construction  
3 9 properties posted to the state construction registry.

3 10 ~~6.~~ 11. "Subcontractor" ~~shall include~~ includes every person  
3 11 furnishing material or performing labor upon any building,  
3 12 erection, or other improvement, except those having contracts  
3 13 directly with the owner. "Subcontractor" shall include those  
3 14 persons having contracts directly with an owner=builder.

3 15 Sec. 3. Section 572.2, Code 2011, is amended to read as  
3 16 follows:

3 17 572.2 Persons entitled to lien.

3 18 1. Every person who ~~shall furnish~~ furnishes any material  
3 19 or labor for, or ~~perform~~ performs any labor upon, any building  
3 20 or land for improvement, alteration, or repair thereof,  
3 21 including those engaged in the construction or repair of any  
3 22 work of internal or external improvement, and those engaged  
3 23 in grading, sodding, installing nursery stock, landscaping,  
3 24 sidewalk building, fencing on any land or lot, by virtue of any  
3 25 contract with the owner, owner=builder, general contractor,  
3 26 or subcontractor shall have a lien upon such building or  
3 27 improvement, and land belonging to the owner on which the same  
3 28 is situated or upon the land or lot so graded, landscaped,  
3 29 fenced, or otherwise improved, altered, or repaired, to secure  
3 30 payment for the material or labor furnished or labor performed.

3 31 2. If material is rented by a person to the owner, general  
3 32 contractor, or subcontractor, the person shall have a lien  
3 33 upon such building, improvement, or land to secure payment for  
3 34 the material rental. The lien is for the reasonable rental  
3 35 value during the period of actual use of the material and any



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4 1 reasonable periods of nonuse of the material taken into account  
4 2 in the rental agreement. The delivery of material to such  
4 3 building, improvement, or land, whether or not delivery is made  
4 4 by the person, creates a presumption that the material was  
4 5 used in the course of alteration, construction, or repair of  
4 6 the building, improvement, or land. However, this presumption  
4 7 shall not pertain to recoveries sought under a surety bond.

4 8 3. An owner=builder is not entitled to a lien under  
4 9 this chapter as to work the owner=builder performs, or is  
4 10 contractually obligated to perform, prior to transferring title  
4 11 to the buyer.

4 12 Sec. 4. Section 572.8, Code 2011, is amended to read as  
4 13 follows:

4 14 572.8 Perfection of lien.

4 15 1. A person shall perfect a mechanic's lien by ~~filing with~~  
4 16 ~~the clerk of the district court of the county in which the~~  
4 17 ~~building, land, or improvement to be charged with the lien is~~  
4 18 ~~situated~~ posting to the state construction registry internet  
4 19 website or submitting to the administrator by United States  
4 20 mail or facsimile transmission a verified statement of account  
4 21 of the demand due the person, after allowing all credits,  
4 22 setting forth:

4 23 a. The date when such material was first furnished or labor  
4 24 first performed, and the date on which the last of the material  
4 25 was furnished or the last of the labor was performed.

4 26 b. The legal description of the property to be charged with  
4 27 the lien.

4 28 c. The name and last known mailing address of the owner of  
4 29 the property.

4 30 d. The address of the property or a description of the  
4 31 location of the property.

4 32 2. ~~Upon the filing~~ perfection of the lien, ~~the clerk of~~  
4 33 ~~court~~ administrator shall mail a copy of the lien to the  
4 34 owner. If the statement of the lien consists of more than one  
4 35 page, the ~~clerk~~ administrator may omit such pages as consist



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5 1 solely of an accounting of the material furnished or labor  
5 2 performed. In this case, the ~~clerk~~ administrator shall attach  
5 3 a notification that pages of accounting were omitted and may  
5 4 be inspected ~~in the clerk's office~~ on the state construction  
5 5 registry internet website.

5 6 Sec. 5. Section 572.9, Code 2011, is amended to read as  
5 7 follows:

5 8 572.9 Time of ~~filing~~ perfection.

5 9 The statement of account required by section 572.8 shall  
5 10 be ~~filed~~ perfected by a ~~principal~~ general contractor or  
5 11 subcontractor within two years and ninety days after the date  
5 12 on which the last of the material was furnished or the last of  
5 13 the labor was performed.

5 14 Sec. 6. Section 572.10, Code 2011, is amended to read as  
5 15 follows:

5 16 572.10 Perfecting lien after lapse of ninety days.

5 17 A general contractor or a subcontractor may perfect a  
5 18 mechanic's lien pursuant to section 572.8 beyond ninety days  
5 19 after the date on which the last of the material was furnished  
5 20 or the last of the labor was performed by filing a claim with  
5 21 the clerk of the district court and giving written notice  
5 22 thereof to the owner. Such notice may be served by any person  
5 23 in the manner original notices are required to be served.  
5 24 If the party to be served is out of the county wherein the  
5 25 property is situated, a return of that fact by the person  
5 26 charged with making such service shall constitute sufficient  
5 27 service from and after the time it was ~~filed with the clerk of~~  
5 28 ~~the district court~~ perfected pursuant to section 572.8.

5 29 Sec. 7. Section 572.11, Code 2011, is amended to read as  
5 30 follows:

5 31 572.11 Extent of lien ~~filed~~ perfected after ninety days.

5 32 Liens perfected under section 572.10 shall be enforced  
5 33 against the property or upon the bond, if given, by the owner  
5 34 or owner=builder, only to the extent of the balance due from  
5 35 the owner to the general contractor or owner=builder at the



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6 1 time of the service of such notice; but if the bond was given by  
6 2 the general contractor or owner=builder, or person contracting  
6 3 with the subcontractor filing the claim for a lien, such bond  
6 4 shall be enforced to the full extent of the amount found due  
6 5 the subcontractor.

6 6 Sec. 8. Section 572.13, Code 2011, is amended by striking  
6 7 the section and inserting in lieu thereof the following:

6 8 572.13 General contractor ==== owner notice ==== residential  
6 9 construction.

6 10 1. A general contractor who has contracted or will contract  
6 11 with a subcontractor to provide labor or furnish material for  
6 12 the property shall provide the owner with the following owner  
6 13 notice in writing in boldface type of a minimum size of ten  
6 14 points:

6 15 "Persons or companies furnishing labor or materials for  
6 16 the improvement of real property may enforce a lien upon the  
6 17 improved property if they are not paid for their contributions,  
6 18 even if the parties have no direct contractual relationship  
6 19 with the owner. The state construction registry provides  
6 20 a listing of all persons or companies furnishing labor or  
6 21 materials who have filed a lien or who may file a lien upon the  
6 22 improved property. If the person or company has posted its  
6 23 notice or lien to the state construction registry, you may be  
6 24 required to pay the person or company even if you have paid the  
6 25 general contractor the full amount due. Therefore, check the  
6 26 state construction registry internet website for information  
6 27 about the property including persons or companies furnishing  
6 28 labor or materials before paying your general contractor. In  
6 29 addition, when making payment to your general contractor, it is  
6 30 important to obtain lien waivers from your general contractor  
6 31 and from persons or companies furnishing labor or materials  
6 32 to your property. The information in the state construction  
6 33 registry is posted on the internet website of the state  
6 34 construction registry."

6 35 2. The notice described in subsection 1 shall also contain





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7 1 the internet website address and toll-free telephone number of  
7 2 the state construction registry.  
7 3 3. A general contractor who fails to provide notice pursuant  
7 4 to this section is not entitled to a lien and remedy provided  
7 5 by this chapter.  
7 6 4. This section applies only to residential construction  
7 7 properties.  
7 8 Sec. 9. NEW SECTION. 572.13A Notice of commencement of work  
7 9 ==== general contractor ==== owner=builder.  
7 10 1. A general contractor or owner=builder shall submit a  
7 11 notice of commencement of work to the administrator or post  
7 12 a notice of commencement of work to the state construction  
7 13 registry internet website within ten days of commencement of  
7 14 work on the property. A notice of commencement of work is  
7 15 effective only as to any labor, service, equipment, or material  
7 16 furnished to the property subsequent to the posting of the  
7 17 notice of commencement of work. A notice of commencement of  
7 18 work shall include all of the following information:  
7 19 a. The name and address of the property owner.  
7 20 b. The name and address of the general contractor or  
7 21 owner=builder.  
7 22 c. The address of the property if the property can be  
7 23 reasonably identified by an address or the name and a general  
7 24 description of the location of the property if the property  
7 25 cannot be reasonably identified by an address.  
7 26 d. A legal description of the property.  
7 27 e. The date work commenced.  
7 28 f. Any other information prescribed by the administrator  
7 29 pursuant to rule.  
7 30 2. If a general contractor or owner=builder fails to submit  
7 31 a notice of commencement of work to the administrator or  
7 32 fails to post the required notice of commencement of work to  
7 33 the state construction registry internet website pursuant to  
7 34 subsection 1, within ten days of commencement of the work on  
7 35 the property, a subcontractor may submit or post the notice in



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8 1 conjunction with the filing of the required preliminary notice  
8 2 pursuant to section 572.13B.  
8 3 3. At the time a notice of commencement of work is posted  
8 4 on the state construction registry internet website, the  
8 5 administrator shall send a copy of the owner notice described  
8 6 in section 572.13 along with other relevant information to the  
8 7 owner and to the property address, addressed to "owner", as  
8 8 prescribed by the administrator pursuant to rule.  
8 9 4. A general contractor who fails to provide notice pursuant  
8 10 to this section is not entitled to a lien and remedy provided  
8 11 by this chapter.  
8 12 5. This section applies only to residential construction  
8 13 properties.  
8 14 Sec. 10. NEW SECTION. 572.13B Preliminary notice ====  
8 15 subcontractor ==== residential construction.  
8 16 1. A subcontractor shall submit a preliminary notice to  
8 17 the administrator or post a preliminary notice to the state  
8 18 construction registry internet website. A preliminary notice  
8 19 posted prior to the balance paid to the general contractor  
8 20 or owner=builder by the owner is effective as to all labor,  
8 21 service, equipment, and material furnished to the property by  
8 22 the subcontractor. The preliminary notice shall contain all  
8 23 of the following information:  
8 24 a. The name of the owner.  
8 25 b. The state construction registry number.  
8 26 c. The name, address, and telephone number of the  
8 27 subcontractor furnishing the labor, service, equipment, or  
8 28 material.  
8 29 d. The name and address of the person who contracted  
8 30 with the claimant for the furnishing of the labor, service,  
8 31 equipment, or material.  
8 32 e. The name of the general contractor or owner=builder under  
8 33 which the claimant is performing or will perform the work.  
8 34 f. The address of the property or a description of the  
8 35 location of the property.



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9 1 g. Any other information required by the administrator  
9 2 pursuant to rule.  
9 3 2. A mechanic's lien perfected under this chapter  
9 4 is enforceable only to the extent of the balance due the  
9 5 general contractor or owner=builder prior to the posting of a  
9 6 preliminary notice specified in subsection 1.  
9 7 3. At the time a preliminary notice is posted to the  
9 8 state construction registry, the administrator shall send  
9 9 notification to the owner as prescribed by the administrator  
9 10 pursuant to rule, including the owner notice described in  
9 11 section 572.13, subsection 1. Notices under this section will  
9 12 not be sent to owner=builders.  
9 13 4. A subcontractor who fails to submit or post a preliminary  
9 14 notice pursuant to this section shall not be entitled to a lien  
9 15 and remedy provided under this chapter.  
9 16 5. This section applies only to residential construction  
9 17 properties.  
9 18 Sec. 11. Section 572.14, Code 2011, is amended by striking  
9 19 the section and inserting in lieu thereof the following:  
9 20 572.14 Liability to subcontractor after payment to general  
9 21 contractor or owner=builder.  
9 22 Except as provided in section 572.13B, payment to the  
9 23 general contractor or owner=builder by the owner of any part or  
9 24 all of the contract price of the building or improvement within  
9 25 ninety days after the date on which the last of the materials  
9 26 was furnished or the last of the labor was performed by a  
9 27 subcontractor, does not relieve the owner from liability to the  
9 28 subcontractor for the full value of any material furnished or  
9 29 labor performed upon the building, land, or improvement if the  
9 30 subcontractor perfects a lien within ninety days after the date  
9 31 on which the last of the materials was furnished or the last of  
9 32 the labor was performed.  
9 33 Sec. 12. Section 572.15, Code 2011, is amended to read as  
9 34 follows:  
9 35 572.15 Discharge of ~~subcontractor's~~ mechanic's lien ==== bond.



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10 1 A mechanic's lien may be discharged at any time by ~~the owner,~~  
10 2 ~~principal contractor, or intermediate subcontractor filing with~~  
10 3 ~~the clerk of the district court of the county in which the~~  
10 4 ~~property is located~~ submitting a bond to the administrator in  
10 5 twice the amount of the sum for which the claim for the lien  
10 6 is filed, with surety or sureties, to be approved by the ~~clerk~~  
10 7 ~~administrator,~~ conditioned for the payment of any sum for which  
10 8 the claimant may obtain judgment upon the claim.

10 9 Sec. 13. Section 572.16, Code 2011, is amended to read as  
10 10 follows:

10 11 572.16 Rule of construction.  
10 12 Nothing in this chapter shall be construed to require the  
10 13 owner to pay a greater amount or at an earlier date than is  
10 14 provided in the owner's contract with the ~~principal~~ general  
10 15 contractor, unless said the owner pays a part or all of the  
10 16 contract price to the original general contractor before the  
10 17 expiration of the ninety days allowed by law for the filing  
10 18 ~~perfection of a mechanic's lien by a subcontractor; provided~~  
10 19 that in the case of an owner-occupied dwelling residential  
10 20 construction, nothing in this chapter shall be construed to  
10 21 require the owner to pay a greater amount or at an earlier date  
10 22 than is provided in the owner's contract with the principal  
10 23 ~~general contractor, unless the owner pays a part or all~~  
10 24 of the contract price to the principal general contractor  
10 25 after receipt of notice under section 572.14, subsection 2 a  
10 26 preliminary notice has been posted to the state construction  
10 27 registry internet website pursuant to section 572.13B.

10 28 Sec. 14. Section 572.17, Code 2011, is amended to read as  
10 29 follows:

10 30 572.17 Priority of mechanics' liens between mechanics.  
10 31 Mechanics' liens shall have priority over each other in the  
10 32 order of the filing submission of the statements or of accounts  
10 33 as herein provided in section 572.8.

10 34 Sec. 15. Section 572.18, subsections 1 and 3, Code 2011, are  
10 35 amended to read as follows:



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11 1 1. Mechanics' liens ~~filed~~ perfected by a ~~principal~~ general  
11 2 contractor or subcontractor within ninety days after the date  
11 3 on which the last of the material was furnished or the last  
11 4 of the claimant's labor was performed and for which notices  
11 5 were properly submitted or posted to the state construction  
11 6 registry internet website pursuant to sections 572.13A and  
11 7 572.13B shall be superior to all other liens which may attach  
11 8 to or upon a building or improvement and to the land upon which  
11 9 it is situated, except liens of record prior to the time of the  
11 10 original commencement of the claimant's work or the claimant's  
11 11 improvements, except as provided in subsection 2.

11 12 3. The rights of purchasers, encumbrancers, and other  
11 13 persons who acquire interests in good faith, for a valuable  
11 14 consideration, and without notice of a lien perfected pursuant  
11 15 to this chapter, are superior to the claims of all general  
11 16 contractors or subcontractors who have perfected their liens  
11 17 more than ninety days after the date on which the last of the  
11 18 claimant's material was furnished or the last of the claimant's  
11 19 labor was performed.

11 20 Sec. 16. Section 572.22, Code 2011, is amended to read as  
11 21 follows:

11 22 572.22 Record of claim.

11 23 The ~~clerk of the court~~ administrator shall endorse upon  
11 24 every claim for a mechanic's lien ~~filed in the clerk's office~~  
~~11 25 posted to the state construction registry internet website or~~  
11 26 submitted to the administrator through United States mail the  
11 27 date and hour of filing and make an abstract thereof in the  
~~11 28 mechanic's lien book kept for that purpose. Said book Each~~  
11 29 claim shall be properly indexed and shall contain the following  
11 30 items concerning each claim:

- 11 31 1. The name of the person by whom filed.
- 11 32 2. The date and hour of filing.
- 11 33 3. The amount thereof.
- 11 34 4. The name of the person against whom filed.
- 11 35 5. The legal description of the property to be charged



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12 1 ~~therewith.~~

12 2 6. The tax parcel identification number of the property to  
12 3 be charged.

12 4 Sec. 17. Section 572.23, Code 2011, is amended to read as  
12 5 follows:

12 6 572.23 Acknowledgment of satisfaction of claim.

12 7 1. When a mechanic's lien is satisfied by payment of the  
12 8 claim, the claimant shall acknowledge satisfaction thereof ~~upon~~  
~~12 9 the mechanic's lien book, or otherwise in writing, and, if the~~  
12 10 claimant neglects to do so for thirty days after demand in  
12 11 writing is personally served upon the claimant, the claimant  
12 12 shall forfeit and pay twenty-five dollars to the owner ~~or,~~  
12 13 general contractor, or owner=builder and be liable to any  
12 14 person injured to the extent of the injury.

12 15 2. If ~~acknowledgment of~~ satisfaction is not ~~filed~~  
~~12 16 acknowledged~~ within thirty days after service of the demand in  
12 17 writing, the party serving the demand or causing the demand to  
12 18 be served may file for record with the ~~clerk of the district~~  
~~12 19 court administrator~~ a copy of the demand with proofs of service  
12 20 attached and endorsed and, in case of service by publication,  
12 21 a personal affidavit that personal service could not be made  
12 22 within this state. Upon completion of the requirements of this  
12 23 subsection, the record shall be constructive notice to all  
12 24 parties of the due forfeiture and cancellation of the lien.  
12 25 Upon the filing of the demand with the required attachments,  
12 26 the ~~clerk of the district court administrator~~ shall mail a  
12 27 file=stamped copy of the demand to both parties.

12 28 Sec. 18. Section 572.30, Code 2011, is amended to read as  
12 29 follows:

12 30 572.30 Action by subcontractor or owner against general  
12 31 contractor or owner=builder.

12 32 Unless otherwise agreed, a ~~principal~~ general contractor  
12 33 or owner=builder who engages a subcontractor to supply  
12 34 labor or materials or both for improvements, alterations or  
12 35 repairs to a specific ~~owner-occupied dwelling~~ residential



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13 1 construction property shall pay the subcontractor in full for  
13 2 all labor and materials supplied within thirty days after  
13 3 the date the ~~principal~~ general contractor or owner=builder  
13 4 receives full payment from the owner. If a ~~principal~~ general  
13 5 contractor or owner=builder fails without due cause to pay a  
13 6 subcontractor as required by this section, the subcontractor,  
13 7 or the owner by subrogation, may commence an action against  
13 8 the general contractor or owner=builder to recover the amount  
13 9 due. Prior to commencing an action to recover the amount  
13 10 due, a subcontractor, or the owner by subrogation, shall give  
13 11 notice of nonpayment of the cost of labor or materials to  
13 12 the ~~principal~~ general contractor or owner=builder paid for  
13 13 the improvement. Notice of nonpayment must be in writing,  
13 14 delivered in a reasonable manner, and in terms that reasonably  
13 15 identify the real estate improved and the nonpayment complained  
13 16 of. In an action to recover the amount due a subcontractor,  
13 17 or the owner by subrogation, under this section, the court  
13 18 in addition to actual damages, shall award a successful  
13 19 plaintiff exemplary damages against the general contractor  
13 20 or owner=builder in an amount not less than one percent  
13 21 and not exceeding fifteen percent of the amount due the  
13 22 subcontractor, or the owner by subrogation, for the labor and  
13 23 materials supplied, unless the ~~principal~~ general contractor or  
13 24 owner=builder does one or both of the following, in which case  
13 25 no exemplary damages shall be awarded:  
13 26 1. Establishes that all proceeds received from the person  
13 27 making the payment have been applied to the cost of labor or  
13 28 material furnished for the improvement.  
13 29 2. Within fifteen days after receiving notice of nonpayment  
13 30 the ~~principal~~ general contractor or owner=builder gives a  
13 31 bond or makes a deposit with the ~~clerk of the district court~~  
13 32 administrator, in an amount not less than the amount necessary  
13 33 to satisfy the nonpayment for which notice has been given  
13 34 under this section, and in a form approved by a judge of the  
13 35 district court, to hold harmless the owner or person having



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14 1 the improvement made from any claim for payment of anyone  
14 2 furnishing labor or material for the improvement, other than  
14 3 the ~~principal~~ general contractor or owner=builder.

14 4 Sec. 19. Section 572.31, Code 2011, is amended to read as  
14 5 follows:

14 6 572.31 Cooperative and condominium housing.

14 7 A lien arising under this chapter as a result of the  
14 8 construction of an apartment house or apartment building which  
14 9 is owned on a cooperative basis under chapter 499A, or which is  
14 10 submitted to a horizontal property regime under chapter 499B,  
14 11 is not enforceable, notwithstanding any contrary provision  
14 12 of this chapter, as against the interests of an owner in ~~an~~  
~~14 13 owner-occupied dwelling~~ a unit contained in the apartment  
14 14 house or apartment building acquired in good faith and for  
14 15 valuable consideration, unless a lien statement specifically  
14 16 describing the ~~dwelling~~ unit is filed under section 572.8  
14 17 within the applicable time period specified in section 572.9,  
14 18 but determined from the date on which the last of the material  
14 19 was supplied or the last of the labor was performed in the  
14 20 construction of that ~~dwelling~~ unit.

14 21 Sec. 20. Section 572.32, Code 2011, is amended to read as  
14 22 follows:

14 23 572.32 Attorney fees ==== remedies.

14 24 1. In a court action to enforce a mechanic's lien, ~~if~~  
~~14 25 the plaintiff furnished labor or materials directly to the~~  
~~14 26 defendant,~~ a prevailing plaintiff may be awarded reasonable  
14 27 attorney fees.

14 28 2. In a court action to challenge a mechanic's lien filed on  
14 29 ~~an owner-occupied dwelling~~ a residential construction property,  
14 30 if the person challenging the lien prevails, the court may  
14 31 award reasonable attorney fees and actual damages. If the  
14 32 court determines that the mechanic's lien was filed in bad  
14 33 faith or the supporting affidavit was materially false, the  
14 34 court shall award the owner reasonable attorney fees plus an  
14 35 amount not less than five hundred dollars or the amount of the





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15 1 lien, whichever is less.

15 2 Sec. 21. Section 572.33, Code 2011, is amended to read as  
15 3 follows:

15 4 572.33 Requirement of notification for commercial  
15 5 construction.

15 6 1. The notification requirements in this section apply only  
15 7 to commercial construction.

15 8 ~~1.~~ 2. A person furnishing labor or materials to a  
15 9 subcontractor shall not be entitled to a lien under this  
15 10 chapter unless the person furnishing labor or materials does  
15 11 all of the following:

15 12 a. Notifies the principal general contractor or  
15 13 owner=builder in writing with a one=time notice containing  
15 14 the name, mailing address, and telephone number of the  
15 15 person furnishing the labor or materials, and the name of the  
15 16 subcontractor to whom the labor or materials were furnished,  
15 17 within thirty days of first furnishing labor or materials for  
15 18 which a lien claim may be made. Additional labor or materials  
15 19 furnished by the same person to the same subcontractor for  
15 20 use in the same construction project shall be covered by this  
15 21 notice.

15 22 b. Supports the lien claim with a certified statement that  
15 23 the principal general contractor or owner=builder was notified  
15 24 in writing with a one=time notice containing the name, mailing  
15 25 address, and telephone number of the person furnishing the  
15 26 labor or materials, and the name of the subcontractor to whom  
15 27 the labor or materials were furnished, within thirty days  
15 28 after the labor or materials were first furnished, pursuant to  
15 29 paragraph "a".

15 30 ~~2. This section shall not apply to a mechanic's lien on~~  
~~15 31 single-family or two-family dwellings occupied or used or~~  
~~15 32 intended to be occupied or used for residential purposes.~~

15 33 3. Notwithstanding other provisions of this chapter, a  
15 34 principal general contractor or owner=builder shall not be  
15 35 prohibited from requesting information from a subcontractor



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16 1 or a person furnishing labor or materials to a subcontractor  
16 2 regarding payments made or payments to be made to a person  
16 3 furnishing labor or materials to a subcontractor.  
16 4     Sec. 22. NEW SECTION. 572.33A Liability of owner to general  
16 5 contractor ==== commercial construction.  
16 6     An owner of a building, land, or improvement upon which  
16 7 a mechanic's lien of a subcontractor may be filed, is not  
16 8 required to pay the general contractor for compensation for  
16 9 work done or material furnished for the building, land, or  
16 10 improvement until the expiration of ninety days after the  
16 11 completion of the building or improvement unless the general  
16 12 contractor furnishes to the owner one of the following:  
16 13     1. Receipts and waivers of claims for mechanics' liens,  
16 14 signed by all persons who furnished material or performed labor  
16 15 for the building, land, or improvement.  
16 16     2. A good and sufficient bond to be approved by the owner,  
16 17 conditioned that the owner shall be held harmless from any  
16 18 loss which the owner may sustain by reason of the filing of  
16 19 mechanics' liens by subcontractors.  
16 20     Sec. 23. NEW SECTION. 572.34 State construction registry  
16 21 ==== residential construction.  
16 22     1. A state construction registry is created and shall be  
16 23 administered by the administrator. The administrator shall  
16 24 adopt rules pursuant to chapter 17A for the creation and  
16 25 administration of the registry.  
16 26     2. The state construction registry shall be accessible  
16 27 to the general public through the administrator's internet  
16 28 website.  
16 29     3. The registry shall be indexed by owner name, general  
16 30 contractor name, state construction registry number, property  
16 31 address, legal description, tax parcel identification number,  
16 32 and any other identifier considered appropriate as determined  
16 33 by the administrator.  
16 34     4. A general contractor, owner=builder, or subcontractor  
16 35 who posts fictitious, forged, or false information to the



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17 1 state construction registry shall be subject to a penalty as  
17 2 determined by the administrator by rule in addition to all  
17 3 other penalties and remedies available under applicable law.  
17 4 5. A person may post a correction statement with respect to  
17 5 a record indexed in the state construction registry internet  
17 6 website if the person believes the record is inaccurate or  
17 7 wrongfully posted.  
17 8 6. The administrator shall charge and collect fees as  
17 9 established by rule necessary for the administration and  
17 10 maintenance of the registry and the registry's internet  
17 11 website. The administrator shall not charge a filing fee for  
17 12 a preliminary notice required pursuant to this chapter that  
17 13 exceeds the cost of sending such notice by certified mail with  
17 14 restricted delivery and return receipt. The administrator  
17 15 shall not charge a filing fee for a mechanics' lien that  
17 16 exceeds forty dollars.  
17 17 7. Notices may be posted to the state construction registry  
17 18 electronically on the administrator's internet website, or may  
17 19 be sent to the administrator by United States mail or facsimile  
17 20 transmission.  
17 21 8. The administrator shall send a receipt acknowledging  
17 22 a notice submitted by United States mail or facsimile  
17 23 transmission, as provided by the administrator by rule.  
17 24 9. Information collected by and furnished to the  
17 25 administrator in conjunction with the submission and posting  
17 26 of notices pursuant to sections 572.13A and 572.13B shall be  
17 27 used by the administrator solely for the purposes of the state  
17 28 construction registry.  
17 29 Sec. 24. Section 602.8102, subsection 82, Code 2011, is  
17 30 amended to read as follows:  
17 31 82. Carry out duties relating to liens as provided in  
17 32 chapters 249A, ~~572~~, 574, 580, 582, and 584.  
17 33 Sec. 25. EFFECTIVE DATE. This Act takes effect January 1,  
17 34 2013.  
17 35

EXPLANATION



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18 1 This bill relates to mechanics' liens including the  
18 2 establishment of a state construction registry for residential  
18 3 construction property and provides an effective date.  
18 4     The bill changes all references to "principal contractor"  
18 5 and "contractor" to "general contractor", defined in the  
18 6 bill to mean a person who does work or furnishes materials  
18 7 by contract, express or implied, with an owner. "General  
18 8 contractor" does not include a person who does work or  
18 9 furnishes materials on contract with an owner=builder.  
18 10     The bill defines "owner=builder" as the legal or equitable  
18 11 titleholder who furnishes material or performs labor upon a  
18 12 building, erection, or other improvement, or who contracts  
18 13 with a subcontractor to furnish material or perform labor upon  
18 14 a building, erection, or other improvement and who offers  
18 15 or intends to offer to sell the owner=builder's property  
18 16 without occupying or using the structures, properties,  
18 17 developments, or improvements for more than one year from the  
18 18 date the structure, property, development, or improvement  
18 19 is substantially completed or abandoned. The bill extends  
18 20 provisions currently in the Code for general contractors to  
18 21 owner=builders. These provisions relate to perfecting a lien,  
18 22 the acknowledgment of a lien that has been satisfied by payment  
18 23 of a claim, actions by subcontractors or owners to recover  
18 24 amounts due, and certain notification requirements. The bill  
18 25 also extends provisions for general contractors relating to  
18 26 notification requirements for commercial construction to  
18 27 owner=builders.  
18 28     The bill provides for the perfection of a mechanic's lien  
18 29 by posting a verified statement of account to the state  
18 30 construction registry internet website or submitting to the  
18 31 administrator of the registry (the secretary of state), rather  
18 32 than by filing such statement with the district court. The  
18 33 bill provides that a person who intends to perfect a mechanic's  
18 34 lien shall include the address of the property or a description  
18 35 of the location of the property in the person's verified



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19 1 statement.

19 2       The bill provides that a general contractor who has  
19 3 contracted or will contract with a subcontractor to provide  
19 4 labor or furnish material for the property shall provide the  
19 5 owner with an owner notice stating that persons or companies  
19 6 furnishing labor or materials for the improvement of real  
19 7 property may enforce a lien upon the improved property if they  
19 8 are not paid, even if the parties have no direct contractual  
19 9 relationship with the owner. The notice shall also provide  
19 10 information relating to the availability of information posted  
19 11 on the state construction registry established by the bill.  
19 12 A general contractor who fails to provide such notice to  
19 13 the owner is not entitled to a mechanic's lien and remedies  
19 14 pursuant to Code chapter 572.

19 15       The bill provides that a general contractor or owner=builder  
19 16 shall submit a notice of commencement of work to the  
19 17 administrator or post a notice of commencement of work,  
19 18 including certain specific information, to the state  
19 19 construction registry internet website.

19 20       The bill requires a subcontractor to submit a preliminary  
19 21 notice to the administrator or post a preliminary notice,  
19 22 including certain specific information, to the state  
19 23 construction registry internet website. A preliminary notice  
19 24 received by the administrator or posted prior to the balance  
19 25 paid to the general contractor or owner=builder by the owner  
19 26 is effective as to all labor, service, equipment, or material  
19 27 furnished to the property subsequent to the posting of the  
19 28 notice of commencement of work. A subcontractor who fails to  
19 29 submit or post a preliminary notice shall not be entitled to a  
19 30 lien and remedy provided under Code chapter 572.

19 31       The bill provides that the provisions relating to the  
19 32 requirement that a general contractor and a subcontractor  
19 33 post notices to the state construction registry apply only to  
19 34 residential construction properties.

19 35       The bill provides that payment to the general contractor or



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20 1 owner=builder by the owner of any part or all of the contract  
20 2 price of the building or improvement within 90 days after the  
20 3 date on which the last of the materials was furnished or the  
20 4 last of the labor was performed by a subcontractor, does not  
20 5 relieve the owner from liability to the subcontractor for the  
20 6 full value of any material furnished or labor performed upon  
20 7 the building, land, or improvement if the subcontractor files  
20 8 a lien within 90 days after the date on which the last of the  
20 9 materials was furnished or the last of the labor was performed.  
20 10 The bill provides for the creation of a state construction  
20 11 registry for residential construction property for the  
20 12 posting of notices by general contractors, owner=builders, and  
20 13 subcontractors which such persons must post in order to protect  
20 14 their lien rights. The state construction registry, once  
20 15 created, shall be a publicly accessible centralized electronic  
20 16 database created and maintained by the administrator. The  
20 17 administrator shall adopt rules pursuant to Code chapter 17A  
20 18 for the creation and administration of the registry. The  
20 19 registry provides a centralized resource of all persons or  
20 20 companies furnishing labor or materials who may file a lien  
20 21 upon the improved property. Data collected by and furnished  
20 22 to the administrator in conjunction with the submission and  
20 23 posting of notices to the state construction registry internet  
20 24 website shall be used by the administrator for the purposes of  
20 25 the registry.  
20 26 The bill eliminates the requirement that the clerk of court  
20 27 make an abstract of a claim for a mechanic's lien and requires  
20 28 the administrator to record the date and hour of filing of a  
20 29 claim for a mechanic's lien and to index every claim.  
20 30 The bill takes effect January 1, 2013.

LSB 2191YH (11) 84

rh/nh



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## House File 412 - Introduced

HOUSE FILE  
BY KOESTER

### A BILL FOR

1 An Act prohibiting smoking in all areas of gambling structures,  
2 excursion gambling boats, and racetrack enclosures.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TL5B 2425YH (2) 84  
pf/rj



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House File 412 - Introduced continued

PAG LIN

1 1 Section 1. Section 142D.4, subsection 10, Code 2011, is  
1 2 amended by striking the subsection.  
1 3 EXPLANATION  
1 4 This bill prohibits smoking throughout gambling structures,  
1 5 excursion gambling boats, and racetrack enclosures. Current  
1 6 law allows smoking in the gaming areas of these locations  
1 7 except for enclosed restaurants or bars within the gaming area.  
LSB 2425YH (2) 84  
pf/rj





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**House File 413 - Introduced**

HOUSE FILE  
BY PETERSEN and KAUFMANN

**A BILL FOR**

1 An Act relating to urban revitalization areas by authorizing  
2 a property tax exemption for certain vacant commercial  
3 property, and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2410YH (2) 84  
md/sc



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House File 413 - Introduced continued

PAG LIN

1 1 Section 1. Section 404.3, subsections 5 and 6, Code 2011,  
1 2 are amended to read as follows:  
1 3 5. A city or county may adopt a different tax exemption  
1 4 schedule than those allowed in subsection 1, 2, 3, or 4. The  
1 5 different schedule adopted shall not allow a greater exemption,  
1 6 but may allow a smaller exemption, in a particular year,  
1 7 than allowed in the schedule specified in the corresponding  
1 8 subsection of this section. A different schedule adopted by a  
1 9 city or county shall apply to every revitalization area within  
1 10 the city or county, unless the qualified property is eligible  
1 11 for an exemption pursuant to section 404.3A, ~~or~~ 404.3B, or  
1 12 404.3C, and except in areas of the city or county which have  
1 13 been designated as both urban renewal and urban revitalization  
1 14 areas. In an area designated for both urban renewal and urban  
1 15 revitalization, a city or county may adopt a different schedule  
1 16 than has been adopted for revitalization areas which have not  
1 17 been designated as urban renewal areas.  
1 18 6. The owners of qualified real estate eligible for the  
1 19 exemption provided in this section or section 404.3A, ~~or~~  
1 20 404.3B, or 404.3C shall elect to take the applicable exemption  
1 21 or shall elect to take the applicable exemption provided in  
1 22 the different schedule authorized by subsection 5 and adopted  
1 23 in the city or county plan if a different schedule has been  
1 24 adopted. Once the election has been made and the exemption  
1 25 granted, the owner is not permitted to change the method of  
1 26 exemption.  
1 27 Sec. 2. NEW SECTION. 404.3C Vacant commercial property  
1 28 exemption.  
1 29 1. Notwithstanding the schedules provided for in sections  
1 30 404.3 and 404.3B, a city or county may provide that all  
1 31 qualified real estate assessed as commercial property that is  
1 32 vacant on the date the exemption is adopted, has been vacant  
1 33 for at least the six months prior to the date the exemption  
1 34 is adopted, and meets one or more of the following conditions  
1 35 is eligible to receive an exemption from taxation based on a



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2 1 schedule established by the applicable city or county under  
2 2 subsection 2 or 3:  
2 3 a. The real estate regularly attracts unauthorized  
2 4 residential use, unlicensed transient business, unauthorized  
2 5 disposal of trash, or unauthorized parking.  
2 6 b. The assessed value of the real estate has declined during  
2 7 the period of time when the real estate has been vacant.  
2 8 c. The real estate is determined to contain one or more  
2 9 nuisances under chapter 657 or to be a public nuisance as  
2 10 defined in section 657A.1, subsection 7.  
2 11 2. a. All qualified real estate described in subsection 1  
2 12 is eligible to receive an exemption from taxation on the actual  
2 13 value added by the improvements. The exemption is for a period  
2 14 of fifteen years. The amount of the partial exemption shall  
2 15 be established by the applicable city or county and is equal  
2 16 to a percent of the actual value added by the improvements,  
2 17 determined as follows:  
2 18 (1) For the first year, not more than eighty percent.  
2 19 (2) For the second year, not more than seventy=five percent.  
2 20 (3) For the third year, not more than seventy percent.  
2 21 (4) For the fourth year, not more than sixty=five percent.  
2 22 (5) For the fifth year, not more than sixty percent.  
2 23 (6) For the sixth year, not more than fifty=five percent.  
2 24 (7) For the seventh year, not more than fifty percent.  
2 25 (8) For the eighth year, not more than forty=five percent.  
2 26 (9) For the ninth year, not more than forty percent.  
2 27 (10) For the tenth year, not more than thirty=five percent.  
2 28 (11) For the eleventh year, not more than thirty percent.  
2 29 (12) For the twelfth year, not more than twenty=five  
2 30 percent.  
2 31 (13) For the thirteenth year, not more than twenty percent.  
2 32 (14) For the fourteenth year, not more than twenty percent.  
2 33 (15) For the fifteenth year, not more than twenty percent.  
2 34 b. All qualified real estate described in subsection 1 is,  
2 35 in lieu of the exemption schedule established under paragraph



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3 1 "a", eligible to receive an exemption from taxation established  
3 2 by the applicable city or county not to exceed one hundred  
3 3 percent on the actual value added by the improvements. The  
3 4 exemption is for a period of five years.  
3 5 3. All qualified real estate described in subsection 1 is,  
3 6 in lieu of the exemption schedules under subsection 2, eligible  
3 7 to receive an exemption from taxation on the actual value added  
3 8 by the improvements if such improvements meet or exceed the  
3 9 gold rating standard, or other comparable nationally recognized  
3 10 environmental building rating standard identified by ordinance  
3 11 of the city or county, and if such improvements are designed,  
3 12 constructed, and certified to exceed standard 90.1=2007,  
3 13 published by the American society of heating, refrigerating,  
3 14 and air conditioning engineers, by thirty percent. For the  
3 15 purposes of this subsection, "gold rating standard" means the  
3 16 United States green building council leadership in energy and  
3 17 environmental design green building rating standard, referred  
3 18 to as the gold standard. Compliance with the requirements  
3 19 of this subsection relating to standard 90.1=2007, published  
3 20 by the American society of heating, refrigerating, and air  
3 21 conditioning engineers, shall be certified by a qualified,  
3 22 licensed engineer. The exemption is for a period of ten  
3 23 years. The amount of the exemption shall be established by  
3 24 the applicable city or county and is equal to a percent of the  
3 25 actual value added by the improvements, determined as follows:  
3 26 a. For the first year, not more than one hundred percent.  
3 27 b. For the second year, not more than one hundred percent.  
3 28 c. For the third year, not more than one hundred percent.  
3 29 d. For the fourth year, not more than one hundred percent.  
3 30 e. For the fifth year, not more than one hundred percent.  
3 31 f. For the sixth year, not more than eighty percent.  
3 32 g. For the seventh year, not more than sixty percent.  
3 33 h. For the eighth year, not more than forty percent.  
3 34 i. For the ninth year, not more than twenty percent.  
3 35 j. For the tenth year, not more than ten percent.



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4 1       Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
4 2 immediate importance, takes effect upon enactment.

4 3                               EXPLANATION

4 4       This bill relates to revitalization areas by authorizing a  
4 5 property tax exemption for certain vacant commercial property.

4 6       The bill creates new Code section 404.3C that establishes  
4 7 a property tax exemption for qualified real estate of a  
4 8 revitalization area under Code chapter 404 that is assessed  
4 9 as commercial property, remained vacant for a period of six  
4 10 consecutive months, and which meets one or more specified  
4 11 conditions. Those conditions include that the real estate  
4 12 regularly attracts unauthorized residential use, unlicensed  
4 13 transient business, unauthorized disposal of trash, or  
4 14 unauthorized parking; that the assessed value of the real  
4 15 estate has declined during the period of time when the real  
4 16 estate has been vacant; and that the real estate is determined  
4 17 to contain one or more specified nuisances.

4 18       The bill establishes a 15-year exemption schedule that  
4 19 provides exemptions for each year ranging from not more than 80  
4 20 percent to not more than 20 percent. The bill also establishes  
4 21 a five-year exemption schedule, in lieu of the 15-year  
4 22 schedule, that provides a 100 percent exemption for each of  
4 23 the five years. For qualified real estate that includes  
4 24 improvements meeting the LEED gold rating standard, as defined  
4 25 in the bill, the bill provides an alternative 10-year exemption  
4 26 schedule that begins with a 100 percent exemption for the first  
4 27 five years and then is reduced each year during the last five  
4 28 years of the exemption.

4 29       The bill takes effect upon enactment.

LSB 2410YH (2) 84  
md/sc



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**House File 414 - Introduced**

HOUSE FILE  
BY KOESTER and  
ABDUL=SAMAD

**A BILL FOR**

1 An Act prohibiting use by any student enrolled in a school  
2 district and use on school grounds of nicotine products and  
3 providing restrictions for violation of the prohibition.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2435HH (3) 84  
kh/nh



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PAG LIN

1 1 Section 1. Section 279.9, Code 2011, is amended to read as  
1 2 follows:

1 3 279.9 Use of tobacco, alcoholic beverages, or controlled  
1 4 substances.

1 5 1. The ~~rules shall prohibit the~~ use of tobacco, including  
1 6 nicotine products, and the use or possession of alcoholic  
1 7 liquor, wine, or beer or any controlled substance as defined in  
1 8 section 124.101, subsection 5, by any student ~~of the schools,~~  
1 9 and ~~the~~ on school grounds, is prohibited. The school board may  
1 10 suspend or expel a student for a violation of ~~a rule under~~ this  
1 11 section. The school board may remove a person for violation of  
1 12 this section and may bar the person's future presence on school  
1 13 grounds for such violation.

1 14 2. As used in this section, "nicotine product" means any  
1 15 product containing nicotine or any other preparation of tobacco  
1 16 not described in section 453A.1, and any product or formulation  
1 17 of matter containing biologically active amounts of nicotine  
1 18 that is manufactured, sold, offered for sale, or otherwise  
1 19 distributed with the expectation that the product or matter  
1 20 will be introduced into the human body. "Nicotine product" does  
1 21 not include any cessation product specifically approved by the  
1 22 United States food and drug administration for use in reducing,  
1 23 treating, or eliminating nicotine or tobacco dependence.

1 24 EXPLANATION

1 25 This bill provides that the use of nicotine products by any  
1 26 student, and on school grounds, is prohibited. For a violation  
1 27 of the provision, the school board may suspend or expel a  
1 28 student, may remove a person, and may bar the person's future  
1 29 presence on school grounds.

1 30 The bill defines "nicotine product" as any product  
1 31 containing nicotine or any other preparation of tobacco  
1 32 not described in Code section 453A.1, and any product or  
1 33 formulation of matter containing biologically active amounts  
1 34 of nicotine that is manufactured, sold, offered for sale, or  
1 35 otherwise distributed with the expectation that the product



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2 1 or matter will be introduced into the human body. "Nicotine  
2 2 product" does not include any cessation product specifically  
2 3 approved by the United States food and drug administration for  
2 4 use in reducing, treating, or eliminating nicotine or tobacco  
2 5 dependence.

LSB 2435HH (3) 84

kh/nh





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**House File 415 - Introduced**

HOUSE FILE  
BY SWAIM

**A BILL FOR**

1 An Act relating to removal of a guardian in a termination of  
2 parental rights proceeding.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2487YH (2) 84  
jp/nh



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PAG LIN

1 1 Section 1. Section 232.118, subsection 1, Code 2011, is  
1 2 amended to read as follows:  
1 3 1. Upon application of an interested party, upon the  
1 4 filing of a petition by an interested party in accordance with  
1 5 subsection 1A, or upon the court's own motion, the court having  
1 6 jurisdiction of the child may, after notice to the parties and  
1 7 a hearing, remove a court-appointed guardian and appoint a  
1 8 guardian in accordance with the provisions of section 232.117,  
1 9 subsection 3.  
1 10 Sec. 2. Section 232.118, Code 2011, is amended by adding the  
1 11 following new subsections:  
1 12 NEW SUBSECTION. 1A. If a petition is filed by an interested  
1 13 party asking for removal of a court-appointed guardian and  
1 14 appointment of a guardian in accordance with the provisions  
1 15 of section 232.117, subsection 3, the petition shall state or  
1 16 attach the following:  
1 17 a. The name, residence, and domicile of any guardian or  
1 18 custodian of the child and the name, residence, and domicile of  
1 19 the child's guardian ad litem.  
1 20 b. The name, residence, and domicile of the petitioner, and  
1 21 the date or expected date on which any adoption proceedings are  
1 22 expected to commence.  
1 23 c. The existence of any criminal conviction or deferred  
1 24 judgment for an offense other than a simple misdemeanor under  
1 25 a law of any state against the guardian or custodian, and  
1 26 the existence of any founded child abuse report in which the  
1 27 guardian or custodian is named.  
1 28 d. A description and estimate of the value of any property  
1 29 owned by or held for the child.  
1 30 e. A preplacement investigation report that has been  
1 31 prepared concerning the child.  
1 32 f. Other relevant information.  
1 33 NEW SUBSECTION. 1B. If the child's guardian is the  
1 34 department or an agency appointed under section 232.117,  
1 35 subsection 3, paragraph "a" or "b", and the court finds by



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House File 415 - Introduced continued

2 1 clear and convincing evidence that removal of the guardian is  
2 2 in the child's best interest, the court shall order removal of  
2 3 the guardian and appoint a replacement guardian under section  
2 4 232.117, subsection 3. However, the court shall not order the  
2 5 removal over a formal objection to the removal filed by the  
2 6 child's attorney or guardian ad litem unless the court finds by  
2 7 a preponderance of the evidence that removal of the guardian  
2 8 is in the child's best interest. The factors considered by  
2 9 the court in determining the child's best interest under this  
2 10 subsection may include but are not limited to any of the  
2 11 following information:

2 12 a. The existence of a significant relationship between the  
2 13 child and the petitioner.

2 14 b. The special needs of the child and the petitioner's  
2 15 ability to meet those needs.

2 16 c. The potential effects on the child if the guardian is  
2 17 removed and a replacement guardian is appointed.

2 18 EXPLANATION

2 19 This bill relates to the grounds for removal of a child's  
2 20 guardian in a termination of parental rights proceeding under  
2 21 Code chapter 232, the juvenile justice code.

2 22 Under current law when termination of parental rights over  
2 23 a child is ordered under Code section 232.117, the court must  
2 24 transfer guardianship and custody to one of the following: the  
2 25 department of human services; a child-placing agency or other  
2 26 suitable private agency, facility, or institution which is  
2 27 licensed or otherwise authorized by law to receive and provide  
2 28 care for the child; or a parent who does not have physical care  
2 29 of the child, other relative, or other suitable person.

2 30 Current law under Code section 232.118 allows the juvenile  
2 31 court with jurisdiction over the child to order removal of a  
2 32 guardian upon application of an interested party or upon the  
2 33 court's own motion, after notice to the parties and a hearing.  
2 34 The bill allows an interested party to file a petition  
2 35 containing information specified in the bill.



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3 1 A recent Iowa court of appeals decision indicates that a  
3 2 court's decision on removal of a child's guardian in such cases  
3 3 must be based upon proof of unreasonable actions on the part of  
3 4 the guardian. The bill provides that if the child's guardian  
3 5 is the department or an agency, and the court finds by clear  
3 6 and convincing evidence that removal of the guardian is in the  
3 7 child's best interest, the court must order removal of the  
3 8 guardian and appoint a replacement guardian under Code section  
3 9 232.117, subsection 3. However, the court is prohibited from  
3 10 ordering the removal over a formal objection to the removal  
3 11 filed by the child's attorney or guardian ad litem unless the  
3 12 court finds by a preponderance of the evidence that removal of  
3 13 the guardian is in the child's best interest. The bill lists  
3 14 various factors concerning the child and the petitioner that  
3 15 may be considered by the court.

LSB 2487YH (2) 84

jp/nh



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## House File 416 - Introduced

HOUSE FILE  
BY GARRETT

### A BILL FOR

1 An Act relating to the membership of the state judicial  
2 nominating commission and district judicial nominating  
3 commissions and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 1748YH (7) 84  
jm/rj



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PAG LIN

1 1 Section 1. Section 46.1, Code 2011, is amended to read as  
1 2 follows:

1 3 46.1 Appointment of state judicial nominating commissioners.  
1 4 ~~The Except as otherwise provided in section 46.1A, the~~  
1 5 governor shall appoint, subject to confirmation by the senate,  
1 6 ~~one four~~ eligible ~~elector~~ electors of each congressional  
1 7 district to the state judicial nominating commission for a  
1 8 six-year term beginning and ending as provided in section  
1 9 69.19. The terms of no more than ~~three~~ six nor less than ~~two~~  
~~1 10~~ four of the members shall expire within the same two-year  
1 11 period. No more than a simple majority of the members  
1 12 appointed shall be of the same gender. The appointed members  
1 13 shall be voting members.

1 14 Sec. 2. NEW SECTION. 46.1A State judicial nominating  
1 15 members ===== appointment ===== transition.

1 16 1. In order to transition to sixteen appointed members for  
1 17 the state judicial nominating commission and to ensure each  
1 18 appointed member serves a six-year term, and future terms are  
1 19 staggered, the composition of the state judicial nominating  
1 20 commission shall consist of the following number of appointed  
1 21 members during the following time periods:

1 22 a. At the time of appointing successors for the two  
1 23 appointive terms ending on April 30, 2011, the governor shall  
1 24 appoint a total of five eligible electors to the state judicial  
1 25 nominating commission. The appointive membership of the state  
1 26 judicial nominating commission shall then consist of ten  
1 27 appointed members from May 1, 2011, through April 30, 2013.

1 28 b. At the time of appointing successors for the three  
1 29 appointive terms ending on April 30, 2013, the governor shall  
1 30 appoint a total of six eligible electors to the state judicial  
1 31 nominating commission. The appointive membership of the state  
1 32 judicial nominating commission shall then consist of thirteen  
1 33 appointed members from May 1, 2013, through April 30, 2015.

1 34 c. At the time of appointing successors for the two  
1 35 appointive terms ending on April 30, 2015, the governor shall



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2 1 appoint a total of five eligible electors to the state judicial  
2 2 nominating commission. The appointive membership of the state  
2 3 judicial nominating commission shall then consist of sixteen  
2 4 appointed members from May 1, 2015, and every year thereafter.  
2 5 2. To ensure geographic balance during the transition  
2 6 to sixteen appointed members the governor shall first make  
2 7 an appointment to the state judicial nominating commission  
2 8 from the eligible electors of a congressional district with  
2 9 the least number of appointed members on the commission. If  
2 10 two or more congressional districts with the least number of  
2 11 appointed members have equal membership the governor shall make  
2 12 an appointment to break the tie and then appoint a member from  
2 13 the congressional district with the least number of appointed  
2 14 members on the commission.  
2 15 Sec. 3. Section 46.2, Code 2011, is amended by striking the  
2 16 section and inserting in lieu thereof the following:  
2 17 46.2 Election of state judicial nominating commission member.  
2 18 1. The resident members of the bar shall elect one  
2 19 eligible elector of the state to the state judicial nominating  
2 20 commission for a six=year term beginning July 1, 2015. The  
2 21 members of the bar shall in January, immediately preceding the  
2 22 expiration of the term, elect a successor for a like term. The  
2 23 elected member shall be a nonvoting, advisory member.  
2 24 2. The elected members of the state judicial nominating  
2 25 commission serving on the commission as of the effective  
2 26 date of this Act shall remain on the commission until their  
2 27 respective terms end, and no new successor member shall  
2 28 be elected except as provided in subsection 3. The voting  
2 29 terms of the elected members of the state judicial nominating  
2 30 commission end on the effective date of this Act.  
2 31 3. In January 2015, the members of the bar shall elect the  
2 32 eligible elector as provided in subsection 1.  
2 33 Sec. 4. Section 46.2A, Code 2011, is amended by striking the  
2 34 section and inserting in lieu thereof the following:  
2 35 46.2A Chairperson of the state judicial nominating



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3 1 commission.

3 2 1. The justice of the supreme court who is senior in length,  
3 3 other than the chief justice, shall be the chairperson of the  
3 4 state judicial nominating commission. The chairperson shall  
3 5 be a nonvoting advisory member of the commission unless a vote  
3 6 ends in a tie, in such case the chairperson is eligible to cast  
3 7 the tie-breaking vote.

3 8 2. If supreme court justices have equal length of service,  
3 9 the eldest of such justices shall be the chairperson of the  
3 10 state judicial nominating commission.

3 11 Sec. 5. Section 46.3, Code 2011, is amended to read as  
3 12 follows:

3 13 46.3 Appointment of district judicial nominating  
3 14 commissioners.

3 15 The governor shall appoint five eligible electors of each  
3 16 judicial election district to the district judicial nominating  
3 17 commission. Appointments shall be to staggered terms of six  
3 18 years each and shall be made in the month of January for terms  
3 19 commencing February 1 of even-numbered years. No more than  
3 20 a simple majority of the commissioners appointed shall be of  
3 21 the same gender. The appointed commissioners shall be voting  
3 22 members.

3 23 Sec. 6. Section 46.4, Code 2011, is amended by striking the  
3 24 section and inserting in lieu thereof the following:

3 25 46.4 Election of district judicial nominating commissioner.

3 26 1. The resident members of the bar of each judicial election  
3 27 district shall elect one eligible elector of the district to  
3 28 the district judicial nominating commission for a six-year  
3 29 term beginning February 1, 2016. The members of the bar shall  
3 30 in January, immediately preceding the expiration of the term,  
3 31 elect a successor for a like term. The elected commissioner  
3 32 shall be a nonvoting, advisory commissioner.

3 33 2. The elected commissioners of the district judicial  
3 34 nominating commission serving on the commission as of the  
3 35 effective date of this Act shall remain on the commission until





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4 1 their respective terms end, and no new successor commissioner  
4 2 shall be elected except as provided in subsection 3. The  
4 3 voting terms of the elected commissioners of the district  
4 4 judicial nominating commission end on the effective date of  
4 5 this Act.  
4 6 3. In January 2016, the members of the bar shall elect the  
4 7 eligible elector as provided in subsection 1.  
4 8 Sec. 7. NEW SECTION. 46.4A Chairperson of district judicial  
4 9 nominating commission.  
4 10 1. The district judge who is senior in length shall be the  
4 11 chairperson of the district judicial nominating commission.  
4 12 The chairperson shall be a nonvoting, advisory member of the  
4 13 commission unless a vote ends in a tie, in such case the  
4 14 chairperson is eligible to cast the tie-breaking vote.  
4 15 2. If district judges have equal length of service, the  
4 16 eldest of such judges shall be the chairperson of the district  
4 17 judicial nominating commission.  
4 18 Sec. 8. REPEAL. Section 46.6, Code 2011, is repealed.  
4 19 Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
4 20 immediate importance, takes effect upon enactment.  
4 21 EXPLANATION  
4 22 This bill relates to the membership of the state judicial  
4 23 nominating commission and the district judicial nominating  
4 24 commissions.  
4 25 STATE JUDICIAL NOMINATING COMMISSION. The bill specifies  
4 26 that members appointed to the state judicial nominating  
4 27 commission by the governor shall be voting members of the  
4 28 commission and members elected to the commission by members  
4 29 of the state bar shall be advisory nonvoting members of the  
4 30 commission. Current law provides that both appointed and  
4 31 elected members of the state judicial nominating commission are  
4 32 voting members.  
4 33 Current law relating to the change in the number of Iowa's  
4 34 congressional districts provides that the terms of each  
4 35 appointed and elected member of the state judicial nominating



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5 1 commission expire on December 31, 2012, and staggered  
5 2 transitional terms begin January 1, 2013, based upon the four  
5 3 congressional districts being established following the 2010  
5 4 decennial census. The bill strikes these current transitional  
5 5 provisions and establishes a new process for transitioning the  
5 6 membership of the state judicial nominating commission based  
5 7 upon four congressional districts being established following  
5 8 the 2010 decennial census.  
5 9 Under the new process established by the bill, the governor  
5 10 shall appoint four eligible electors from each congressional  
5 11 district to the state judicial nominating commission. The bill  
5 12 allows the six=year term of each of the seven current appointed  
5 13 members on the state judicial nominating commission to expire  
5 14 six years after appointment.  
5 15 In order for the state judicial nominating commission to  
5 16 transition from seven appointed members to 16 appointed members  
5 17 and to ensure each appointed member serves a six=year term,  
5 18 and future terms are staggered, the size of the state judicial  
5 19 nominating commission shall vary during the transitional period  
5 20 under the bill. Beginning with the two appointive terms  
5 21 ending on April 30, 2011, the governor shall appoint five  
5 22 eligible electors to the state judicial nominating commission.  
5 23 The appointive membership of the state judicial nominating  
5 24 commission shall then consist of 10 appointed members from May  
5 25 1, 2011, through April 30, 2013. Beginning with the three  
5 26 appointive terms ending on April 30, 2013, the governor shall  
5 27 appoint six eligible electors to the state judicial nominating  
5 28 commission. The appointive membership of the state judicial  
5 29 nominating commission shall then consist of 13 appointed  
5 30 members from May 1, 2013, through April 30, 2015. Beginning  
5 31 with the two appointive terms ending on April 30, 2015, the  
5 32 governor shall appoint five eligible electors to the state  
5 33 judicial nominating commission. The appointive membership  
5 34 of the state judicial nominating commission, having achieved  
5 35 the required number of appointed members, shall consist of 16



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6 1 appointed members after May 1, 2015, and every year thereafter.  
6 2 The bill reduces the number of members of the state judicial  
6 3 nominating commission elected by the resident members of  
6 4 the bar from seven members to one member by July 1, 2015,  
6 5 and makes all current elected members nonvoting members of  
6 6 the commission. The current members of the state judicial  
6 7 nominating commission shall remain on the commission until the  
6 8 respective term of the member ends. The last terms of current  
6 9 elected members end on June 30, 2015. When the last terms  
6 10 of current elected members end, the bill provides that the  
6 11 resident members of the bar shall elect one eligible elector  
6 12 of the state to the state judicial nominating commission for a  
6 13 six=year, nonvoting term beginning July 1, 2015, and every six  
6 14 years thereafter.  
6 15 The state judicial nominating commission nominates persons  
6 16 for appointment by the governor to the supreme court and court  
6 17 of appeals.  
6 18 DISTRICT JUDICIAL NOMINATING COMMISSION. The bill specifies  
6 19 that members appointed to the district judicial nominating  
6 20 commissions by the governor shall be voting members of the  
6 21 commission and members elected to the commission by members  
6 22 of the state bar shall be advisory, nonvoting members of the  
6 23 commission. Current law provides that both appointed and  
6 24 elected members of the district judicial nominating commissions  
6 25 are voting members.  
6 26 Under the bill, the number of commissioners appointed by the  
6 27 governor to serve on a district judicial nominating commission  
6 28 remains at five commissioners.  
6 29 The bill reduces the number of commissioners of a district  
6 30 judicial nominating commission elected by the resident members  
6 31 of the bar from five members to one member by January 31, 2016,  
6 32 and makes all current elected members nonvoting members of  
6 33 the commission. The current members of the district judicial  
6 34 nominating commission shall remain on the commission until  
6 35 their respective terms end. The last term of a current



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7 1 elected member ends on January 31, 2016. When the last term  
7 2 of a current elected member ends, the bill provides that the  
7 3 resident members of the bar shall elect one eligible elector of  
7 4 the state to the district judicial nominating commission for a  
7 5 six=year, nonvoting term beginning February 1, 2016, and every  
7 6 six years thereafter.

7 7 The district judicial nominating commissions nominate  
7 8 persons for appointment by the governor to the district court  
7 9 bench.

7 10 CHAIRPERSON OF STATE JUDICIAL NOMINATING COMMISSION OR  
7 11 DISTRICT JUDICIAL NOMINATING COMMISSION. The bill repeals Code  
7 12 section 46.6 relating to judicial officers with equal seniority  
7 13 serving as chairperson of the state judicial nominating  
7 14 commission or a district judicial nominating commission and  
7 15 moves these provisions to new Code sections 46.2A and 46.4A  
7 16 respectively.

7 17 The bill makes the justice of the supreme court, who is the  
7 18 chairperson of the state judicial nominating commission, a  
7 19 nonvoting, advisory member of the commission unless a vote ends  
7 20 in a tie, in such case the bill provides that the chairperson  
7 21 is eligible to cast the tie=breaking vote.

7 22 The bill also makes the district judge, who is chairperson  
7 23 of the district judicial nominating commission, a nonvoting,  
7 24 advisory member of the commission unless a vote ends in a  
7 25 tie, in such case, the bill provides that the chairperson is  
7 26 eligible to cast the tie=breaking vote.

7 27 EFFECTIVE DATE. The bill takes effect upon enactment.

LSB 1748YH (7) 84

jm/rj



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HOUSE FILE  
BY HAGENOW

**A BILL FOR**

1 An Act relating to increasing certain criminal and  
2 administrative penalties for operating=while=intoxicated  
3 offenses.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 1772HH (5) 84  
rh/nh



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1 1 Section 1. Section 321J.2, subsection 2, paragraph c, Code  
1 2 2011, is amended to read as follows:

1 3 c. A class ~~"D"~~ "C" felony for a third offense and each  
1 4 subsequent offense.

1 5 Sec. 2. Section 321J.2, subsection 3, unnumbered paragraph  
1 6 1, Code 2011, is amended to read as follows:

1 7 A Except as otherwise provided in section 321J.2C, a first  
1 8 offense is punishable by all of the following:

1 9 Sec. 3. Section 321J.2, subsections 4, 5, and 10, Code 2011,  
1 10 are amended to read as follows:

1 11 4. A Except as otherwise provided in section 321J.2C, a  
1 12 second offense is punishable by all of the following:

1 13 a. A minimum period of imprisonment in the county jail or  
1 14 community-based correctional facility of ~~seven~~ fourteen days  
1 15 but not to exceed two years.

1 16 b. Assessment of a minimum fine of ~~one~~ two thousand ~~eight~~  
~~1 17~~ five hundred fifty dollars and a maximum fine of ~~six~~ seven  
1 18 thousand ~~two~~ five hundred ~~fifty~~ dollars. Surcharges and fees  
1 19 shall be assessed pursuant to chapter 911.

1 20 c. Revocation of the defendant's driver's license for a  
1 21 period of ~~one year~~ three years, if a revocation occurs pursuant  
1 22 to section 321J.12, subsection 1. If a revocation occurs due  
1 23 to test refusal under section 321J.9, or pursuant to section  
1 24 321J.4, subsection 2, the defendant's license shall be revoked  
1 25 for a period of ~~two~~ four years.

1 26 d. Assignment to substance abuse evaluation and treatment, a  
1 27 course for drinking drivers, and, if available and appropriate,  
1 28 a reality education substance abuse prevention program pursuant  
1 29 to section 321J.24.

1 30 5. A Except as otherwise provided in section 321J.2C, a  
~~1 31~~ third offense is punishable by all of the following:

1 32 a. Commitment to the custody of the director of the  
1 33 department of corrections for an indeterminate term not to  
1 34 exceed ~~five~~ ten years, with a mandatory minimum term of ~~thirty~~  
~~1 35~~ sixty days.



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2 1 (1) If the court does not suspend a person's sentence of  
2 2 commitment to the custody of the director of the department  
2 3 of corrections under this paragraph "a", the person shall be  
2 4 assigned to a facility pursuant to section 904.513.

2 5 (2) If the court suspends a person's sentence of commitment  
2 6 to the custody of the director of the department of corrections  
2 7 under this paragraph "a", the court shall order the person to  
2 8 serve not less than ~~thirty~~ sixty days nor more than one year in  
2 9 the county jail, and the person may be committed to treatment  
2 10 in the community under section 907.6.

2 11 b. Assessment of a minimum fine of ~~three~~ five thousand ~~one~~  
~~2 12 hundred twenty-five~~ dollars and a maximum fine of ~~nine~~ ten  
2 13 thousand ~~three hundred seventy-five~~ dollars. Surcharges and  
2 14 fees shall be assessed pursuant to chapter 911.

2 15 c. ~~Revocation~~ Permanent revocation of the person's driver's  
2 16 license ~~for a period of six years pursuant to section 321J.4,~~  
~~2 17 subsection 4.~~

2 18 d. Assignment to substance abuse evaluation and treatment, a  
2 19 course for drinking drivers, and, if available and appropriate,  
2 20 a reality education substance abuse program pursuant to section  
2 21 321J.24.

2 22 10. The clerk of the district court shall immediately  
2 23 certify to the department a true copy of each order entered  
2 24 with respect to deferral of judgment, deferral of sentence, or  
2 25 pronouncement of judgment and sentence for a defendant under  
2 26 this section or section 321J.2C.

2 27 Sec. 4. NEW SECTION. 321J.2C Enhanced penalties ==== alcohol  
2 28 concentration exceeding .15.

2 29 1. A person who violates section 321J.2, subsection 1, whose  
2 30 alcohol concentration established by the results of an analysis  
2 31 of a specimen of the person's blood, breath, or urine withdrawn  
2 32 in accordance with this chapter exceeds .15, regardless of  
2 33 whether or not the alcohol concentration indicated by the  
2 34 chemical test minus the established margin of error inherent in  
2 35 the device or method used to conduct the test equals an alcohol



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3 1 concentration of .15 or more, shall be subject to the following  
3 2 penalties:  
3 3     a. For a first offense:  
3 4       (1) A minimum period of imprisonment in the county jail  
3 5 of four days, but not to exceed one year, to be served as  
3 6 ordered by the court, less credit for any time the person  
3 7 was confined in a jail or detention facility following  
3 8 arrest or for any time the person spent in a court-ordered  
3 9 operating-while-intoxicated program that provides law  
3 10 enforcement security. However, the court, in ordering service  
3 11 of the sentence and in its discretion, may accommodate the  
3 12 defendant's work schedule.  
3 13       (2) Assessment of a fine of at least one thousand five  
3 14 hundred dollars and a maximum of two thousand two hundred fifty  
3 15 dollars. Surcharges and fees shall also be assessed pursuant  
3 16 to chapter 911.  
3 17       (3) Revocation of the person's driver's license for a  
3 18 minimum period of two hundred forty days up to a maximum  
3 19 revocation period of one year.  
3 20       (4) Assignment to substance abuse evaluation and treatment,  
3 21 a course for drinking drivers, and, if available and  
3 22 appropriate, a reality education substance abuse prevention  
3 23 program pursuant to section 321J.24.  
3 24     b. For a second offense, regardless of whether the person  
3 25 received an enhanced penalty under this section for the first  
3 26 offense:  
3 27       (1) A minimum period of imprisonment in the county jail or  
3 28 community-based correctional facility of thirty days but not to  
3 29 exceed two years.  
3 30       (2) Assessment of a minimum fine of three thousand dollars  
3 31 and a maximum fine of eight thousand dollars. Surcharges and  
3 32 fees shall be assessed pursuant to chapter 911.  
3 33       (3) Revocation of the defendant's driver's license for a  
3 34 period of four years.  
3 35       (4) Seizure and forfeiture of the defendant's motor vehicle





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4 1 to the state pursuant to chapters 809 and 809A if the defendant  
4 2 is the owner of the motor vehicle used in the commission of the  
4 3 offense.

4 4 (5) Assignment to substance abuse evaluation and treatment,  
4 5 a course for drinking drivers, and, if available and  
4 6 appropriate, a reality education substance abuse prevention  
4 7 program pursuant to section 321J.24.

4 8 c. For a third offense and all subsequent offenses under  
4 9 this section, regardless of whether the person received an  
4 10 enhanced penalty under this section for any prior offenses:

4 11 (1) A minimum period of imprisonment of ninety days but not  
4 12 to exceed ten years.

4 13 (2) Assessment of a minimum fine of five thousand dollars  
4 14 and a maximum fine of ten thousand dollars. Surcharges and  
4 15 fees shall be assessed pursuant to chapter 911.

4 16 (3) Permanent revocation of the person's driver's license.

4 17 (4) Seizure and forfeiture of the defendant's motor vehicle  
4 18 to the state pursuant to chapters 809 and 809A if the defendant  
4 19 is the owner of the motor vehicle used in the commission of the  
4 20 offense.

4 21 (5) Assignment to substance abuse evaluation and  
4 22 treatment, a course for drinking drivers, and, if available  
4 23 and appropriate, a reality education substance abuse program  
4 24 pursuant to section 321J.24.

4 25 2. The provisions of this chapter that do not conflict with  
4 26 the provisions of this section shall continue to apply to a  
4 27 violation of this chapter.

4 28 Sec. 5. Section 321J.4, subsection 2, Code 2011, is amended  
4 29 to read as follows:

4 30 2. If a defendant is convicted of a violation of section  
4 31 321J.2, and the defendant's driver's license or nonresident  
4 32 operating privilege has not already been revoked under section  
4 33 321J.9 or 321J.12 for the occurrence from which the arrest  
4 34 arose, the department shall revoke the defendant's driver's  
4 35 license or nonresident operating privilege for ~~one year~~ three



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5 1 years if the defendant submitted to chemical testing and has  
5 2 had a previous conviction or revocation under this chapter and  
5 3 shall revoke the defendant's driver's license or nonresident  
5 4 operating privilege for ~~two~~ four years if the defendant refused  
5 5 to submit to chemical testing and has had a previous revocation  
5 6 under this chapter. The defendant shall not be eligible for  
5 7 any temporary restricted license for forty-five days after the  
5 8 effective date of revocation if the defendant submitted to  
5 9 chemical testing and shall not be eligible for any temporary  
5 10 restricted license for ninety days after the effective date  
5 11 of revocation if the defendant refused chemical testing. The  
5 12 temporary restricted license shall be issued in accordance with  
5 13 section 321J.20, subsection 2. The department shall require  
5 14 the defendant to install an ignition interlock device of a type  
5 15 approved by the commissioner of public safety on all vehicles  
5 16 owned or operated by the defendant if the defendant seeks a  
5 17 temporary restricted license at the end of the minimum period  
5 18 of ineligibility. A temporary restricted license shall not  
5 19 be granted by the department until the defendant installs the  
5 20 ignition interlock device.

5 21 Sec. 6. Section 321J.4B, subsection 6, Code 2011, is amended  
5 22 to read as follows:

5 23 6. Upon conviction of the defendant for a second  
5 24 or subsequent violation of subsection 2, paragraph "a",  
5 25 ~~subparagraph (2)~~, the court shall order, if the convicted  
5 26 person is the owner of the motor vehicle used in the commission  
5 27 of the offense, that that motor vehicle be seized and forfeited  
5 28 to the state pursuant to chapters 809 and 809A.

5 29 Sec. 7. Section 321J.9, subsection 1, Code 2011, is amended  
5 30 to read as follows:

5 31 1. If a person refuses to submit to the chemical testing, a  
5 32 test shall not be given, but the department, upon the receipt  
5 33 of the peace officer's certification, subject to penalty for  
5 34 perjury, that the officer had reasonable grounds to believe the  
5 35 person to have been operating a motor vehicle in violation of



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6 1 section 321J.2 or 321J.2A, that specified conditions existed  
6 2 for chemical testing pursuant to section 321J.6, and that the  
6 3 person refused to submit to the chemical testing, shall revoke  
6 4 the person's driver's license and any nonresident operating  
6 5 privilege for the following periods of time:  
6 6     a. One year if the person has no previous revocation under  
6 7 this chapter; ~~and.~~  
6 8     b. ~~Two~~ Four years if the person has had ~~a~~ one previous  
6 9 revocation under this chapter.  
6 10     Sec. 8. Section 321J.9, subsection 1, Code 2011, is amended  
6 11 by adding the following new paragraph:  
6 12     NEW PARAGRAPH. c. Revocation shall be permanent if the  
6 13 person has had more than one previous revocation under this  
6 14 chapter.  
6 15     Sec. 9. Section 321J.12, subsection 1, paragraph b, Code  
6 16 2011, is amended to read as follows:  
6 17     b. ~~One year~~ Three years if the person has had ~~a~~ one previous  
6 18 revocation under this chapter.  
6 19     Sec. 10. Section 321J.12, subsection 1, Code 2011, is  
6 20 amended by adding the following new paragraph:  
6 21     NEW PARAGRAPH. c. Revocation shall be permanent if the  
6 22 person has had more than one previous revocation under this  
6 23 chapter.  
6 24     Sec. 11. Section 321J.12, subsection 2, paragraph d, Code  
6 25 2011, is amended to read as follows:  
6 26     d. A person whose license or privileges have been revoked  
6 27 under subsection 1, paragraph "b", for ~~one year~~ three years  
6 28 shall not be eligible for any temporary restricted license for  
6 29 forty-five days after the effective date of the revocation, and  
6 30 the department shall require the person to install an ignition  
6 31 interlock device of a type approved by the commissioner  
6 32 of public safety on all vehicles owned or operated by the  
6 33 defendant if the defendant seeks a temporary restricted license  
6 34 at the end of the minimum period of ineligibility. The  
6 35 temporary restricted license shall be issued in accordance with



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7 1 section 321J.20, subsection 2. A temporary restricted license  
7 2 shall not be granted by the department until the defendant  
7 3 installs the ignition interlock device.

7 4 Sec. 12. Section 321J.20, subsection 1, paragraph b, Code  
7 5 2011, is amended to read as follows:

7 6 b. A temporary restricted license may be issued under this  
7 7 subsection if the person's noncommercial driver's license is  
7 8 revoked for ~~two~~ three years under section 321J.4, subsection 2,  
7 9 or section 321J.9, subsection 1, paragraph "b", and the first  
7 10 three hundred sixty-five days of the revocation have expired.

7 11 EXPLANATION

7 12 This bill increases certain criminal and administrative  
7 13 penalties for operating=while=intoxicated (OWI) offenses under  
7 14 Code chapter 321J.

7 15 Under current law, a person commits the offense of operating  
7 16 while intoxicated if the person operates a motor vehicle in  
7 17 this state while under the influence of an alcoholic beverage  
7 18 or other drug or a combination of such substances, while having  
7 19 an alcohol concentration of .08 or more, or while any amount of  
7 20 a controlled substance is present in the person, as measured  
7 21 in the person's blood or urine. Current law provides both  
7 22 administrative and criminal penalties for persons found to  
7 23 be in violation of Code chapter 321J based upon whether the  
7 24 offense is a first, second, or third violation of the law.

7 25 The bill increases certain criminal and administrative  
7 26 penalties for persons convicted of OWI offenses for second and  
7 27 subsequent offenses but distinguishes OWI offenses involving  
7 28 a person with a blood alcohol concentration between .08 and  
7 29 .15 and OWI offenses involving a person with a blood alcohol  
7 30 concentration in excess of .15 and provides enhanced penalties  
7 31 for the latter.

7 32 The bill maintains current law that provides a person  
7 33 convicted of a second offense OWI is guilty of an aggravated  
7 34 misdemeanor, but increases the mandatory minimum jail time from  
7 35 seven days to 14 days, increases the range of the fine that



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8 1 may be imposed from \$1,850 to \$6,250 to \$2,500 to \$7,500, and  
8 2 increases the period of license revocation from one to three  
8 3 years if the person submitted to a chemical test and failed  
8 4 that test and from two years to four years if a revocation  
8 5 occurs due to test refusal under Code section 321J.9.  
8 6 The bill increases the criminal penalty for a person  
8 7 convicted of a third offense OWI from a class "D" felony to  
8 8 a class "C" felony and provides that the mandatory term of  
8 9 imprisonment shall be at least 60 days but shall not exceed  
8 10 10 years. The fine imposed shall be from \$5,000 to \$10,000  
8 11 and a person convicted of a third offense OWI is subject to a  
8 12 permanent license revocation and mandatory vehicle seizure and  
8 13 forfeiture pursuant to Code chapters 809 and 809A.  
8 14 The bill provides for an enhanced penalty structure for  
8 15 a person convicted of an OWI offense with a blood alcohol  
8 16 concentration between .08 and .15. For a first offense, the  
8 17 person is subject to a minimum period of imprisonment in the  
8 18 county jail of four days, but not to exceed one year, a fine  
8 19 of between \$1,500 and \$2,250, and revocation of the person's  
8 20 driver's license for a minimum period of 240 days up to a  
8 21 maximum revocation period of one year; for a second offense, a  
8 22 person is subject to a minimum period of imprisonment in the  
8 23 county jail or community-based correctional facility of from  
8 24 30 days up to two years, a fine of between \$3,000 and \$8,000,  
8 25 revocation of the defendant's driver's license for four years,  
8 26 and seizure and forfeiture of the person's motor vehicle to the  
8 27 state pursuant to Code chapters 809 and 809A if the person is  
8 28 the owner of the motor vehicle used in the commission of the  
8 29 offense; and for a third offense and all subsequent offenses, a  
8 30 person is subject to minimum period of imprisonment of 90 days  
8 31 not to exceed 10 years, a fine of between \$5,000 and \$10,000,  
8 32 permanent revocation of the person's driver's license, and  
8 33 seizure and forfeiture of the person's motor vehicle to the  
8 34 state pursuant to Code chapters 809 and 809A if the person  
8 35 is the owner of the motor vehicle used in the commission of



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9 1 the offense. In addition, consistent with current law, all  
9 2 offenders under this enhanced penalty structure shall be  
9 3 assigned to substance abuse evaluation and treatment, a course  
9 4 for drinking drivers, and, if available and appropriate, a  
9 5 reality education substance abuse program pursuant to Code  
9 6 section 321J.24.

LSB 1772HH (5) 84

rh/nh



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## House File 418 - Introduced

HOUSE FILE  
BY IVERSON

### A BILL FOR

1 An Act creating a mandatory defined contribution pension  
2 plan for certain covered employees and making the plan  
3 optional for all other employees covered by the Iowa public  
4 employees' retirement system.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2104YH (4) 84  
aw/sc



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1 1 Section 1. Section 97B.1, subsection 1, Code 2011, is  
1 2 amended to read as follows:

1 3 1. The "Iowa Public Employees' Retirement System" is  
1 4 established as an independent agency within the executive  
1 5 branch of state government. The Iowa public employees'  
1 6 retirement system shall administer the retirement system  
1 7 established under this chapter and the retirement plan  
1 8 established under chapter 97E.

1 9 Sec. 2. Section 97B.1, subsection 2, Code 2011, is amended  
1 10 by adding the following new paragraph:

1 11 NEW PARAGRAPH. 0d. "Defined contribution plan" means the  
1 12 Iowa public employees' defined contribution plan created in  
1 13 chapter 97E.

1 14 Sec. 3. Section 97B.1A, unnumbered paragraph 1, Code 2011,  
1 15 is amended to read as follows:

1 16 When used in this chapter and chapter 97E, unless the context  
1 17 otherwise requires:

1 18 Sec. 4. Section 97B.42, Code 2011, is amended by adding the  
1 19 following new subsections:

1 20 NEW SUBSECTION. 9. Notwithstanding any other provision  
1 21 of this section, commencing July 1, 2013, a member in regular  
1 22 service may elect coverage under the defined contribution plan  
1 23 created in chapter 97E, in lieu of continuing contributions  
1 24 to the Iowa public employees' retirement system or in lieu  
1 25 of opting out of coverage under this chapter pursuant to  
1 26 section 97B.42A. However, the employer's annual contribution  
1 27 in dollars to the defined contribution plan shall not exceed  
1 28 the annual contribution in dollars which the employer would  
1 29 contribute if the employee had elected to remain an active  
1 30 member under this chapter, as set forth in section 97B.11. A  
1 31 member who elects coverage under the defined contribution plan  
1 32 may withdraw the member's accumulated contributions and the  
1 33 member's share of the accumulated employer contributions as  
1 34 provided in section 97B.53, effective when coverage under the  
1 35 defined contribution plan commences. A member who is employed





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2 1 in a position as an employee in regular service and who is  
2 2 covered under the system in this chapter on July 1, 2013, must  
2 3 file an election for coverage under the defined contribution  
2 4 described in chapter 97E, with the system and the member's  
2 5 employer within eighteen months of the first day on which  
2 6 coverage commences under the defined contribution plan, or the  
2 7 employee shall remain a member under this chapter and shall not  
2 8 be eligible to elect to participate in the defined contribution  
2 9 plan at a later date. A decision to elect out of coverage  
2 10 under this chapter and to elect to participate in the defined  
2 11 contribution plan is irrevocable upon approval from the system.  
2 12 NEW SUBSECTION. 10. A person who is newly hired in a  
2 13 position as an employee in regular service on or after July  
2 14 1, 2013, shall become a member of the Iowa public employees'  
2 15 defined contribution retirement plan created in chapter 97E and  
2 16 shall not be considered to have entered covered employment for  
2 17 the purposes of the benefits plan created in this chapter.  
2 18 NEW SUBSECTION. 11. Notwithstanding any provision of this  
2 19 section to the contrary, a member of the system who is subject  
2 20 to a qualified order for the purpose of enforcing child,  
2 21 spousal, or medical support obligations or marital property  
2 22 orders pursuant to section 97B.39 shall not be eligible to  
2 23 transfer to the defined contribution plan created in chapter  
2 24 97E unless the order is modified to apply under the defined  
2 25 contribution plan created in chapter 97E.  
2 26 Sec. 5. NEW SECTION. 97E.1 Plan created ==== definitions.  
2 27 1. An Iowa public employees' defined contribution  
2 28 retirement plan is created within the Iowa public employees'  
2 29 retirement system.  
2 30 2. As used in this chapter, unless the context otherwise  
2 31 requires:  
2 32 a. "Board" means the defined contribution advisory board  
2 33 created in section 97E.2.  
2 34 b. "Defined benefit system" means the Iowa public employees'  
2 35 retirement system created in chapter 97B.



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3 1 c. "Member" means an employee who has elected coverage under  
3 2 the plan and who has a retirement account in the plan.  
3 3 d. "Plan" means the Iowa public employees' defined  
3 4 contribution retirement plan created in this chapter.  
3 5 e. "Retirement account" means an individual participant's  
3 6 account that includes both employee and employer contributions  
3 7 and investment gains and losses, less any plan administrative  
3 8 expenses.  
3 9 f. "System" means the Iowa public employees' retirement  
3 10 system created in chapter 97B.  
3 11 Sec. 6. NEW SECTION. 97E.2 Defined contribution advisory  
3 12 board.  
3 13 1. Board established. A board is established to be known  
3 14 as the defined contribution advisory board, referred to in  
3 15 this chapter as the "board". The duties of the board are to  
3 16 review matters relating to the establishment and management  
3 17 of the plan. The board shall meet upon the call of the chief  
3 18 executive officer of the Iowa public employees' retirement  
3 19 system.  
3 20 2. Investment review. The board shall review, at least  
3 21 annually, the products, investments, and services offered by  
3 22 the providers under the plan and the investment information  
3 23 available to members and potential members of the plan on an  
3 24 ongoing basis.  
3 25 3. Membership.  
3 26 a. The board shall consist of six voting members. The  
3 27 voting members shall be as follows:  
3 28 (1) Two public members, appointed by the governor, who are  
3 29 not members of the defined benefit system created in chapter  
3 30 97B or the plan created in this chapter.  
3 31 (2) Two members, appointed by the governor, who are eligible  
3 32 to be members of the plan. Of the two members appointed,  
3 33 one shall be an active member who is an employee of a school  
3 34 district, area education agency, or merged area and one  
3 35 shall be an active member who is not an employee of a school



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4 1 district, area education agency, or merged area.  
4 2 (3) Director of the department of administrative services.  
4 3 (4) One member, appointed by the governor, who represents  
4 4 employers of employees eligible to be members of the plan who  
4 5 are not state employees.  
4 6 b. Four voting members of the board shall constitute a  
4 7 quorum.  
4 8 c. The two public members and the one employer member shall  
4 9 be paid their actual expenses incurred in the performance of  
4 10 their duties and shall receive a per diem as specified in  
4 11 section 7E.6 for each day of service not exceeding forty days  
4 12 per year. The members who are eligible to be a member of the  
4 13 plan and the director of the department of administrative  
4 14 services shall be paid their actual expenses incurred in the  
4 15 performance of their duties as members of the board, and the  
4 16 performance of their duties as members of the board shall not  
4 17 affect their salaries, vacations, or leaves of absence for  
4 18 sickness or injury.  
4 19 d. The appointive terms of the members appointed by the  
4 20 governor are for a period of six years beginning and ending  
4 21 as provided in section 69.19. If there is a vacancy in the  
4 22 membership of the board for one of the members appointed by  
4 23 the governor, the governor has the power of appointment.  
4 24 Gubernatorial appointees to this board are subject to  
4 25 confirmation by the senate.  
4 26 Sec. 7. NEW SECTION. 97E.3 Defined contribution plan  
4 27 established ==== assets to be held in trust ==== contracted  
4 28 services.  
4 29 1. The system shall establish a defined contribution plan  
4 30 in accordance with this chapter. The plan must be established  
4 31 as a pension plan for the exclusive benefit of members and  
4 32 their beneficiaries and as a qualified plan pursuant to section  
4 33 401(a) of the Internal Revenue Code and its implementing  
4 34 regulations. Retirement accounts must be established for each  
4 35 member of the plan. Assets of the plan must be held in trust.



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5 1 The system shall be the trustee of the plan. The plan is  
5 2 established in addition to any retirement, pension, deferred  
5 3 compensation, or other benefit plan administered by the state  
5 4 or a political subdivision.  
5 5 2. The system shall contract for plan administration and  
5 6 use a competitive bidding process when contracting for services  
5 7 for the plan. Services include consulting, educational,  
5 8 investment, recordkeeping, or other services for the plan.  
5 9 Sec. 8. NEW SECTION. 97E.4 Iowa public employees'  
5 10 retirement system ==== powers and duties ==== rulemaking.  
5 11 1. The system has the powers and shall perform the duties  
5 12 regarding the plan, as applicable.  
5 13 2. The system shall, in accordance with chapter 17A,  
5 14 adopt rules necessary for the administration of this chapter,  
5 15 including rules concerning the following:  
5 16 a. Matters necessary for the treatment of the plan or plans  
5 17 as a qualified plan under applicable sections of the Internal  
5 18 Revenue Code.  
5 19 b. The treatment of dormant or inactive accounts.  
5 20 c. The security and privacy of information maintained by  
5 21 the system concerning a member's investments, as required by  
5 22 applicable law.  
5 23 d. Minimum asset, reserve, insurance, or other security  
5 24 requirements intended to ensure the solvency of a contractor  
5 25 used by the system for investment services.  
5 26 e. The commencement of benefit payments under the plan.  
5 27 Sec. 9. NEW SECTION. 97E.5 Administrative expenses and  
5 28 fees.  
5 29 1. The system may establish a fund within the plan for  
5 30 paying the plan's administrative expenses.  
5 31 2. The system may do any of the following:  
5 32 a. Assess fees to pay the reasonable administrative costs  
5 33 of the plan.  
5 34 b. Negotiate with a vendor or vendors for vendor  
5 35 reimbursement of administrative expenses for the plan.



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6 1 3. All fees assessed must be fully disclosed to plan members  
6 2 and treated as public information.

6 3 4. Costs for the system to provide for contract oversight  
6 4 are included as part of the administrative expenses of the  
6 5 plan.

6 6 Sec. 10. NEW SECTION. 97E.6 Membership.

6 7 Except as otherwise provided in this chapter, a member of  
6 8 the plan means an employee who has commenced covered employment  
6 9 on or after July 1, 2013, or any employee commencing covered  
6 10 employment prior to that date and who has elected coverage  
6 11 under the plan.

6 12 Sec. 11. NEW SECTION. 97E.7 Transfers or rollovers into  
6 13 plan.

6 14 The plan shall accept the rollover and direct transfer  
6 15 of contributions and the income on those contributions from  
6 16 another eligible retirement plan to the member's account. The  
6 17 plan's acceptance of regular rollovers, direct rollovers, and  
6 18 direct transfers from another eligible retirement plan shall  
6 19 only be to the extent permitted by the Internal Revenue Code.  
6 20 The term "direct rollover" includes a rollover of a member's  
6 21 account balance in the system to the plan pursuant to a plan  
6 22 choice election authorized under section 97B.42.

6 23 Sec. 12. NEW SECTION. 97E.8 Vesting ==== allocation of  
6 24 contributions.

6 25 1. A member is fully vested in the plan with respect to the  
6 26 member's and employer's contributions and the income from those  
6 27 contributions from the date that the employee becomes a member  
6 28 of the plan.

6 29 2. Each member's retirement account in the plan shall be  
6 30 credited with member and employer contributions calculated as  
6 31 provided in section 97B.10. Member contributions shall be  
6 32 treated in the same manner as provided for contributions made  
6 33 under section 97B.11 pursuant to section 97B.11A for federal  
6 34 and state income tax purposes.

6 35 Sec. 13. NEW SECTION. 97E.9 Maximum contribution



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7 1 limitation.

7 2     The annual additions to a retirement account in the plan

7 3 shall not exceed the annual limits on contributions as

7 4 specified in section 415 of the Internal Revenue Code and

7 5 adjusted annually by the commissioner of internal revenue.

7 6     Sec. 14. NEW SECTION. 97E.10 Investment alternatives ====

7 7 notice of changes ==== default fund.

7 8     1. The system shall select providers for the plan to provide

7 9 for a sound and diversified mix of products, investments, and

7 10 services from which individual members may select alternatives

7 11 for the investment of the member's retirement account to

7 12 achieve the member's financial and retirement goals. At least

7 13 four of the providers selected shall be insurance companies

7 14 authorized to issue annuity contracts in this state. The

7 15 system may limit the providers selected to no more than six.

7 16 The selection by the system of a provider shall not constitute

7 17 an endorsement of the provider.

7 18     2. The system shall from time to time review the suitability

7 19 and management of the products, investments, and services

7 20 offered by providers and may change the products, investments,

7 21 and services to be offered. The system shall notify affected

7 22 members of potential changes in products, investments, and

7 23 services before any changes become effective.

7 24     3. Assets within each member's retirement account must be

7 25 invested as directed by the member.

7 26     4. The system shall provide for a balanced alternative

7 27 investment to be established as a default alternative

7 28 investment. If a member fails to direct how the member's

7 29 retirement account is to be invested, the member's entire

7 30 account balance shall be invested in the default alternative

7 31 investment.

7 32     Sec. 15. NEW SECTION. 97E.11 Payout of retirement account

7 33 balances when terminating plan membership.

7 34     Any time after termination of covered employment by a

7 35 member, a member or the member's beneficiary may terminate plan



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8 1 membership by making a written application to the system and  
8 2 removing the member's retirement account balance from the plan  
8 3 through any combination of the following payout options, each  
8 4 of which is subject to applicable regulations of the internal  
8 5 revenue service:  
8 6 1. A direct rollover to an eligible retirement plan or to an  
8 7 individual retirement account or annuity pursuant to section  
8 8 401(a)(31) of the Internal Revenue Code.  
8 9 2. A regular rollover to an eligible retirement plan  
8 10 pursuant to section 402(c) of the Internal Revenue Code.  
8 11 3. A lump sum distribution of the member's retirement  
8 12 account balance.  
8 13 Sec. 16. NEW SECTION. 97E.12 Distribution options for plan  
8 14 members ==== rulemaking ==== minimum distribution requirements ====  
8 15 restrictions.  
8 16 1. Subject to the requirements of this chapter and chapter  
8 17 97B, if applicable, a member may, after termination of covered  
8 18 employment, leave the member's retirement account balance in  
8 19 the plan, and the member is eligible for a distribution as  
8 20 provided in this section.  
8 21 2. After termination of covered employment, upon written  
8 22 application to the system, a member may select a distribution  
8 23 option offered pursuant to a contract negotiated by the system  
8 24 with a plan vendor or vendors.  
8 25 3. A member who is less than seventy and one-half years of  
8 26 age who returns to covered employment shall not continue to  
8 27 receive a distribution under this section while the member is  
8 28 actively employed in a covered position.  
8 29 4. The system shall adopt rules pursuant to chapter 17A  
8 30 to administer this section and to provide that distributions  
8 31 comply with the minimum distribution requirements established  
8 32 in the Internal Revenue Code.  
8 33 Sec. 17. NEW SECTION. 97E.13 Death benefits.  
8 34 A plan member's beneficiary shall be designated and  
8 35 determined pursuant to rules adopted by the system under



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9 1 chapter 17A. Upon written application filed with the system  
9 2 after the death of a plan member, the member's beneficiary is  
9 3 entitled to the member's retirement account balance and all  
9 4 rights established in and subject to this chapter.  
9 5 Sec. 18. NEW SECTION. 97E.14 Minimum retirement account  
9 6 balance required for membership after termination ==== adjustment  
9 7 by rule.  
9 8 1. a. If a member's retirement account balance is less than  
9 9 the current maximum amount prescribed by the internal revenue  
9 10 service that may be distributed without triggering automatic  
9 11 rollover rights at the time that the member terminates covered  
9 12 employment, the member shall terminate plan membership by  
9 13 removing the member's retirement account balance from the plan  
9 14 in a manner provided pursuant to section 97E.11.  
9 15 b. If the member fails to remove the member's retirement  
9 16 account balance, the system may close the account by paying  
9 17 to the member a lump sum distribution of the member's entire  
9 18 account balance.  
9 19 2. The system may by rule adjust the minimum retirement  
9 20 account balance provided in this section as necessary to  
9 21 maintain reasonable administrative costs and to account for  
9 22 inflation and to ensure compliance with applicable internal  
9 23 revenue service requirements.  
9 24 Sec. 19. DEFINED CONTRIBUTION ADVISORY BOARD ==== INITIAL  
9 25 APPOINTMENTS. Notwithstanding any provision of section  
9 26 97E.2 to the contrary, the term of membership for an initial  
9 27 appointment to the defined contribution advisory board shall  
9 28 be as follows:  
9 29 1. The following shall be appointed for an initial six=year  
9 30 term: One employee member and one public member, as designated  
9 31 by the governor.  
9 32 2. The following shall be appointed for an initial four=year  
9 33 term: One employer member and one public member, as designated  
9 34 by the governor.  
9 35 3. The following shall be appointed for an initial two=year





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10 1 term: One employee member, as designated by the governor.

10 2 EXPLANATION

10 3 This bill establishes a mandatory defined contribution  
10 4 retirement plan for all employees commencing covered employment  
10 5 on or after July 1, 2013, and creates an option for employees  
10 6 covered under the Iowa public employees' retirement system  
10 7 (IPERS) to elect out of coverage under that system and into a  
10 8 defined contribution plan established by IPERS effective July  
10 9 1, 2013.

10 10 Membership in the defined contribution plan is established  
10 11 by the bill. The bill provides that a person hired on or  
10 12 after July 1, 2013, in regular service, who would otherwise  
10 13 be eligible for coverage under the defined benefit system of  
10 14 IPERS, must commence coverage under the defined contribution  
10 15 plan established by IPERS. Active members of IPERS in regular  
10 16 service as of July 1, 2013, are given an option for 18 months  
10 17 from July 1, 2013, to transfer to the defined contribution  
10 18 plan. If a member transfers coverage, IPERS shall transfer  
10 19 moneys to the member's account in the defined contribution plan  
10 20 in an amount equal to the amount the person would be eligible  
10 21 to receive as a refund if the person terminated membership  
10 22 under IPERS.

10 23 The bill provides that IPERS shall establish the defined  
10 24 contribution plan as a qualified plan pursuant to section  
10 25 401(a) of the Internal Revenue Code and shall be the trustee  
10 26 of the plan. The bill provides that IPERS shall contract for  
10 27 the administration of the plan through a competitive bidding  
10 28 process. The bill authorizes IPERS to assess fees for the  
10 29 administration of the plan.

10 30 The bill provides for the establishment of a defined  
10 31 contribution advisory board which shall review, at least  
10 32 annually, the investment alternatives provided under the plan.  
10 33 The board consists of six members, to include the director  
10 34 of the department of administrative services, two employee  
10 35 members who would be eligible to be in the plan, one employer



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11 1 member, and two public members. Except for the director of the  
11 2 department of administrative services, the governor appoints  
11 3 the members of the board. Of the two employee members, one  
11 4 shall be a school employee and one shall not. The employer  
11 5 member shall represent employers of employees who are not state  
11 6 employees. The bill further provides transition provisions  
11 7 governing the terms of initial appointments to the board.  
11 8 The bill provides that a member shall be vested in the  
11 9 defined contribution plan immediately.  
11 10 The bill provides that contributions to the plan from  
11 11 employers and employees shall be pretax and based on the  
11 12 contribution percentage rates under Code chapter 97B.  
11 13 The bill provides that IPERS shall select a diversified mix  
11 14 of investment alternatives under the plan and may limit the  
11 15 number of investment providers to no more than six. The bill  
11 16 provides that at least four investment providers be insurance  
11 17 companies authorized to issue annuity contracts in this state.  
11 18 The bill provides that moneys in a member's retirement account  
11 19 shall be deposited in a balanced fund if the member fails to  
11 20 select an investment option. Distributions to plan members,  
11 21 eligible rollovers of accounts, and death benefit provisions  
11 22 are included in the bill. The bill also provides for an  
11 23 immediate distribution of moneys in a member's account if the  
11 24 account balance is less than the maximum amount prescribed by  
11 25 the internal revenue service that can be distributed without  
11 26 triggering automatic rollover rights.

LSB 2104YH (4) 84

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HOUSE FILE

BY WAGNER, HUSEMAN,  
DE BOEF, KLEIN,  
PAUSTIAN, CHAMBERS,  
and PEARSON

**A BILL FOR**

1 An Act creating a tenth amendment commission under the  
2 legislative council and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 1126YH (9) 84  
jp/rj



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1 1 Section 1. NEW SECTION. 2E.1 Short title.  
1 2 This chapter shall be known and may be cited as the "Iowa  
1 3 Sovereignty Protection Act".  
1 4 Sec. 2. NEW SECTION. 2E.2 Definitions.  
1 5 For the purposes of this chapter, unless the context  
1 6 otherwise requires:  
1 7 1. "Commission" means the tenth amendment commission created  
1 8 in section 2E.5.  
1 9 2. "Government action" means any act, order, law, statute,  
1 10 rule, regulation, or other action by a government including  
1 11 the legislative, executive, and judicial branches of the  
1 12 government. "Government action" includes a memorandum of  
1 13 agreement, memorandum of understanding, compact, or other  
1 14 similar binding agreement with the federal government, a  
1 15 government or nongovernmental organization, or a unit of state  
1 16 or local government located outside this state.  
1 17 Sec. 3. NEW SECTION. 2E.3 Legislative findings.  
1 18 The general assembly finds all of the following:  
1 19 1. The Declaration of Independence declares that the  
1 20 colonies ought to be free and independent states.  
1 21 2. The Declaration of Independence avers that the people of  
1 22 the United States have the right to alter or abolish any form  
1 23 of government which becomes destructive to the self-evident  
1 24 truths that all persons are created equal, that they are  
1 25 endowed by their creator with certain unalienable rights;  
1 26 that among these rights are life, liberty, and the pursuit of  
1 27 happiness.  
1 28 3. The Constitution of the United States and the laws and  
1 29 treaties of the United States are the supreme law of the United  
1 30 States.  
1 31 4. The Constitution of the United States enumerates certain  
1 32 specific powers delegated to the federal government.  
1 33 5. The ninth amendment to the Constitution of the United  
1 34 States reads as follows: "The enumeration in the Constitution,  
1 35 of certain rights, shall not be construed to deny or disparage



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2 1 others retained by the people."

2 2       6. The tenth amendment to the Constitution of the United  
2 3 States reads as follows: "The powers not delegated to the  
2 4 United States by the Constitution, nor prohibited by it to the  
2 5 States, are reserved to the States respectively, or to the  
2 6 people."

2 7       7. Article 4, section 4, of the Constitution of the United  
2 8 States reads, in part, as follows: "The United States shall  
2 9 guarantee to every State in this Union a Republican Form of  
2 10 Government".

2 11       Sec. 4. NEW SECTION. 2E.4 Role of federal government  
2 12 relative to the states.

2 13       The general assembly finds all of the following regarding  
2 14 the role of the federal government relative to the states:

2 15       1. The state of Iowa is not bound in unlimited submission  
2 16 to the federal government. Under the style and title of the  
2 17 Constitution of the United States, and of the amendments to  
2 18 that constitution, the states constituted a federal government  
2 19 for special purposes and delegated to that government certain  
2 20 definite powers while generally reserving to each state the  
2 21 right to self-government that is controlled by the people.

2 22       2. Whenever the federal government assumes powers not  
2 23 delegated to it by the states, the assumption of those powers  
2 24 should not be considered authoritative, but instead should  
2 25 be considered as void and having no force and effect. The  
2 26 Constitution of the United States provides a compact to which  
2 27 Iowa and each other state acceded as a state, and to which  
2 28 each is an integral party. The federal government created  
2 29 by this compact was not made the exclusive or final judge of  
2 30 the extent of the powers delegated to the federal government,  
2 31 since that conclusion would substitute the federal government's  
2 32 judgment about those powers for the enumeration of powers in  
2 33 the Constitution of the United States. Instead, as in all  
2 34 other compacts between parties having no common judge, each  
2 35 party has an equal right to judge for itself whether there



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3 1 is an infraction and the mode and measure of redress of the  
3 2 infraction.  
3 3 Sec. 5. NEW SECTION. 2E.5 Tenth amendment commission ====  
3 4 membership.  
3 5 1. The tenth amendment commission is created under the  
3 6 control and supervision of the legislative council. The  
3 7 commission shall consist of the following members:  
3 8 a. Five voting members of the senate, with three appointed  
3 9 by the majority leader of the senate and two appointed by the  
3 10 minority leader of the senate. The appointees shall include  
3 11 at least two members of the senate standing committee on  
3 12 judiciary. The majority leader, president, minority leader,  
3 13 assistant majority and minority leaders of the senate, and the  
3 14 president pro tempore of the senate shall not be appointed to  
3 15 the commission.  
3 16 b. Five voting members of the house of representatives,  
3 17 with three appointed by the speaker and two appointed by  
3 18 the minority leader of the house of representatives. The  
3 19 appointees shall include at least two members of the house  
3 20 standing committee on judiciary. The speaker, majority leader,  
3 21 minority leader, assistant majority and minority leaders, and  
3 22 speaker pro tempore of the house of representatives shall not  
3 23 be appointed to the commission.  
3 24 c. The governor and the attorney general shall each appoint  
3 25 one nonvoting member to attend commission meetings and provide  
3 26 insight and opinions from those offices.  
3 27 2. The voting members of the commission shall serve for  
3 28 terms as provided in section 69.16B.  
3 29 3. The commission shall elect from among its members a  
3 30 co=chairperson from each chamber who shall serve as commission  
3 31 chairperson on an alternating monthly basis, as well as other  
3 32 officers as the commission considers necessary or appropriate.  
3 33 The commission shall meet for at least ten regular monthly  
3 34 meetings per year. Either co=chairperson may call additional  
3 35 meetings.



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4 1       4. Six or more voting members of the commission constitute  
4 2 a quorum for the transaction of business at a meeting of the  
4 3 commission. A majority of the voting members is required for  
4 4 official action of the commission. A member with unexcused  
4 5 absences for more than two regular meetings in one calendar  
4 6 year shall be replaced within thirty days of the third absence.  
4 7       5. Members of the commission shall serve without payment  
4 8 of per diem. However, members of the commission may be  
4 9 reimbursed for reasonable and necessary expenses incurred in  
4 10 the performance of their official duties.  
4 11       Sec. 6. NEW SECTION. 2E.6 Tenth amendment commission  
4 12 duties.  
4 13       1. The tenth amendment commission shall monitor and issue  
4 14 findings identifying federal government actions or proposed  
4 15 federal government actions affecting this state that require  
4 16 or would require this state or a state officer to execute  
4 17 or enforce a provision of federal law that violates the  
4 18 Constitution of the State of Iowa or that lies outside the  
4 19 federal government's enumerated powers under the Constitution  
4 20 of the United States and intrudes on the sovereignty reserved  
4 21 to the states by the ninth and tenth amendments of the  
4 22 Constitution of the United States, or that provides that the  
4 23 state of Iowa can be denied ordinarily available federal  
4 24 funding for not adopting certain laws or regulations.  
4 25       2. If a government action is a memorandum of agreement,  
4 26 memorandum of understanding, compact, or other similar  
4 27 binding agreement with the federal government, a government  
4 28 or nongovernmental organization, or a unit of state or local  
4 29 government located outside this state, this state's party to  
4 30 the government action shall forward the document containing  
4 31 the terms of the government action to the commission. For  
4 32 such government actions entered into on or after the effective  
4 33 date of this Act, such documents shall be forwarded to the  
4 34 commission prior to the state action being finalized.  
4 35       3. If a member of the general assembly who is not a



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5 1 member of the commission obtains the signatures from at  
5 2 least one-third of the members from the member's chamber on a  
5 3 petition stating that a federal government action or pending  
5 4 federal government action should or could be identified in a  
5 5 finding by the commission as unconstitutional or should or  
5 6 could meet other criteria for a finding under subsection 1, the  
5 7 commission shall study the issue and determine whether or not  
5 8 to issue such a finding within ninety calendar days of the date  
5 9 the petition was received. A member of the general assembly  
5 10 shall not petition the commission in such a manner more than  
5 11 once per calendar year.

5 12 4. Approval of a finding issued under this section requires  
5 13 an affirmative vote by the majority of each chamber's voting  
5 14 members of the commission.

5 15 Sec. 7. NEW SECTION. 2E.7 Tenth amendment commission  
5 16 legislation.

5 17 1. a. If at any time the commission issues a finding  
5 18 under section 2E.6, subject to the affirmative vote by the  
5 19 majority of each chamber's voting members, the commission shall  
5 20 introduce a joint resolution in the chamber selected by the  
5 21 commission to declare the government action described in the  
5 22 finding to be null and void and unenforceable as the government  
5 23 action applies to the state of Iowa.

5 24 b. The joint resolution shall not be referred to any  
5 25 committee of the general assembly but shall be considered by  
5 26 the chamber in which introduced with a record roll call vote  
5 27 within ten session days of introduction. However, if the joint  
5 28 resolution includes a determination that fewer than ten session  
5 29 days likely remain before adjournment sine die of the regular  
5 30 legislative session, the joint resolution shall be considered  
5 31 by the chamber in which introduced with a record roll call  
5 32 vote within five session days of introduction. If the general  
5 33 assembly is in extraordinary session, the commission shall  
5 34 identify a time and date for consideration of the joint  
5 35 resolution by both chambers and the joint resolution shall be





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6 1 considered by the chamber in which introduced with a record  
6 2 roll call vote on or before the date and time identified.  
6 3 c. Upon passage of the joint resolution by the originating  
6 4 chamber, the joint resolution shall be sent to the opposite  
6 5 chamber and shall be considered by a record roll call vote  
6 6 by the opposite chamber within ten session days of passage.  
6 7 However, if the joint resolution includes a determination that  
6 8 fewer than ten session days likely remain before adjournment  
6 9 sine die of the regular legislative session, the joint  
6 10 resolution shall be considered by the opposite chamber with  
6 11 a record roll call vote within five session days of passage  
6 12 by the originating chamber. If the general assembly is in  
6 13 extraordinary session, the joint resolution shall be considered  
6 14 by the opposite chamber with a record roll call vote on or  
6 15 before the date and time identified by the commission.  
6 16 2. Enforcement of a joint resolution approved by the general  
6 17 assembly in accordance with this section may require action  
6 18 on the part of the attorney general. If requested by either  
6 19 chamber of the general assembly or the legislative council,  
6 20 the attorney general shall initiate action in any court of the  
6 21 United States or intervene and appear for the people of the  
6 22 state of Iowa to enforce the joint resolution.  
6 23 3. A joint resolution approved by the general assembly  
6 24 in accordance with this section is not subject to approval  
6 25 or veto by the governor. The governor shall not issue an  
6 26 executive order overturning the joint resolution or executing  
6 27 or enforcing the federal law contrary to the provisions of the  
6 28 joint resolution.  
6 29 Sec. 8. NEW SECTION. 2E.8 Tenth amendment commission ====  
6 30 legislative process.  
6 31 Nothing in this chapter shall be construed to prevent any  
6 32 member of the general assembly from introducing legislation on  
6 33 any issue within the purview of the general assembly.  
6 34 Sec. 9. APPOINTMENT ==== INITIAL MEETING.  
6 35 1. The members first appointed to the commission created by



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7 1 this Act shall be appointed within thirty calendar days of the  
7 2 effective date of this Act.

7 3 2. The first meeting of the commission created by this  
7 4 Act shall be called by the majority leader of the senate and  
7 5 speaker of the house of representatives not later than sixty  
7 6 calendar days after the effective date of this Act.

7 7 Sec. 10. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
7 8 of immediate importance, takes effect upon enactment.

7 9 EXPLANATION

7 10 This bill creates a tenth amendment commission under the  
7 11 legislative council in new Code chapter 2E.

7 12 New Code section 2E.1 provides a short title for the  
7 13 legislation to be known and cited as the "Iowa Sovereignty  
7 14 Protection Act".

7 15 New Code section 2E.2 defines the term "government action"  
7 16 to mean any Act, order, law, statute, rule, regulation,  
7 17 or other action by a government including the legislative,  
7 18 executive, and judicial branches of the government.  
7 19 "Government action" includes a memorandum of agreement,  
7 20 memorandum of understanding, compacts, or other similar binding  
7 21 agreement with a government or nongovernmental organization or  
7 22 unit of government located outside this state, including but  
7 23 not limited to the federal government or its agents.

7 24 New Code section 2E.3 provides legislative findings  
7 25 concerning the Declaration of Independence and Constitution of  
7 26 the United States generally and the ninth and tenth amendments  
7 27 to that constitution in particular.

7 28 New Code section 2E.4 provides legislative findings  
7 29 concerning the role of the federal government relative to the  
7 30 states.

7 31 New Code section 2E.5 creates the tenth amendment  
7 32 commission, and provides for appointment of 10 legislators as  
7 33 voting members and governor and attorney general designees  
7 34 as nonvoting members. The membership from each chamber is  
7 35 required to include at least two members of the committee on



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8 1 judiciary and is prohibited from including various legislative  
8 2 leaders.

8 3       New Code section 2E.6 delineates the duties of the  
8 4 commission to monitor government actions, as defined by the  
8 5 bill, and to issue findings concerning the constitutionality  
8 6 of the government actions or whether the government actions  
8 7 provide that the state of Iowa can be denied ordinarily  
8 8 available federal funding for not adopting certain laws or  
8 9 regulations.

8 10       For government actions involving memoranda of agreement,  
8 11 memoranda of understanding, or other legally binding agreements  
8 12 with the federal government, a government or nongovernmental  
8 13 organization, or a unit of state or local government located  
8 14 outside this state, this state's party to the government  
8 15 action is required to forward the document containing the  
8 16 terms of the government action to the commission. For such  
8 17 government actions entered into on or after the effective date  
8 18 of the bill, the documents are required to be forwarded to the  
8 19 commission prior to the state action being finalized.

8 20       A petition procedure is included so that a member of the  
8 21 general assembly who is not a member of the commission and  
8 22 collects the signatures of at least one-third of the membership  
8 23 of the member's chamber can require the commission to review a  
8 24 particular government action.

8 25       An affirmative vote by the majority of each chamber's  
8 26 voting members of the commission is required for issuance of  
8 27 a finding.

8 28       New Code section 2E.7 provides that if a finding is issued  
8 29 by the commission, the commission is required, upon the  
8 30 affirmative vote of a majority of the commission voting members  
8 31 from each chamber, to introduce a joint resolution to declare  
8 32 the government action described in the finding to be null and  
8 33 void and unenforceable as the government action applies to the  
8 34 state of Iowa. The joint resolution is to be introduced in  
8 35 the chamber selected by the commission, cannot be referred to



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9 1 any committee of the general assembly, and is required to be  
9 2 considered by the chamber in which introduced with a record  
9 3 roll call vote within 10 session days of introduction. If  
9 4 the resolution contains a determination that fewer than 10  
9 5 session days likely remain before adjournment sine die of the  
9 6 regular legislative session, or the general assembly is in  
9 7 extraordinary session as determined by the commission, the  
9 8 joint resolution is subject to an expedited time frame.

9 9 The attorney general is required to initiate action or  
9 10 intervene and appear for the people of the state of Iowa to  
9 11 enforce the joint resolution in any United States court, upon  
9 12 request by either chamber of the general assembly or the  
9 13 legislative council. The joint resolution is not subject to  
9 14 approval or veto by the governor. The governor is prohibited  
9 15 from issuing an executive order overturning the joint  
9 16 resolution or executing or enforcing the federal law contrary  
9 17 to the provisions of the joint resolution.

9 18 New Code section 2E.8 provides that the new Code chapter does  
9 19 not prevent any member of the general assembly from introducing  
9 20 legislation on any issue within the purview of the general  
9 21 assembly.

9 22 A temporary law provision requires the initial members of  
9 23 the commission to be appointed within 30 calendar days of the  
9 24 effective date of the bill and for the first meeting of the  
9 25 commission to be called by the majority leader of the senate  
9 26 and speaker of the house of representatives not later than 60  
9 27 calendar days after the bill's effective date.

9 28 The bill takes effect upon enactment.

LSB 1126YH (9) 84

jp/rj



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## House File 420 - Introduced

HOUSE FILE  
BY BALTIMORE

### A BILL FOR

1 An Act requiring that public schools and accredited nonpublic  
2 schools cause the pledge of allegiance to be recited each  
3 school day.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
TLSB 2218YH (3) 84  
kh/nh



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1 1 Section 1. Section 280.5, Code 2011, is amended to read as  
1 2 follows:  
1 3 280.5 Display of United States flag and Iowa state flag ====  
1 4 recitation of pledge of allegiance.

1 5 1. The board of directors of each public school district  
1 6 and the authorities in charge of each nonpublic school shall  
1 7 provide and maintain a suitable flagstaff on each school site  
1 8 under its control, and the United States flag and the Iowa  
1 9 state flag shall be raised on all school days when weather  
1 10 conditions are suitable.

1 11 2. The board of directors of each public school and the  
1 12 authorities in charge of each nonpublic school shall cause the  
1 13 pledge of allegiance to be recited each school day. Persons  
1 14 reciting the pledge of allegiance shall stand holding their  
1 15 right hand over their heart. A student shall not be compelled,  
1 16 against the student's objections or those of the student's  
1 17 parent or guardian, to recite the pledge of allegiance,  
1 18 but shall be required to maintain a respectful silence. A  
1 19 nonpublic school is exempt from this requirement if the  
1 20 authorities in charge of a nonpublic school determine that this  
1 21 requirement conflicts with the school's religious doctrines.

1 22 EXPLANATION

1 23 This bill requires the board of directors of each public  
1 24 school and the authorities in charge of each accredited  
1 25 nonpublic school to cause the pledge of allegiance to be  
1 26 recited each school day. Persons reciting the pledge of  
1 27 allegiance must stand holding their right hand over their  
1 28 heart. A student shall not be compelled against the student's  
1 29 objections, or those of the student's parent or guardian,  
1 30 to recite the pledge, but shall be required to maintain a  
1 31 respectful silence. A nonpublic school is exempted if the  
1 32 requirement conflicts with the school's religious doctrines.